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Report of the Special Rapporteur on minority issues, Rita Izsák

Summary

The present report provides an update of the activities of the Special Rapporteur on minority issues during 2014. It includes a thematic discussion on "Hate speech and incitement to hatred against minorities in the media". Media, in its diverse forms, is an essential component of today's societies, providing huge benefits and possibilities, including in the field of minority issues. Nevertheless, the Special Rapporteur highlights that media can also be misused as a platform for discrimination, exclusion and the incitement of hostility and violence against particular individuals and groups, through hate speech as well as xenophobic discourse.

The Special Rapporteur identifies and analyses factors that influence and perpetuate hate speech in the media. She urges States to adopt legislation prohibiting national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, in line with article 20 of the International Covenant on Civil and Political Rights, and to put in place practical policy and programme measures to prevent hate speech from leading to hate crimes.

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I. Introduction

1. The mandate of the Special Rapporteur on minority issues was established by the Commission on Human Rights in resolution 2005/79, as an Independent Expert, and renewed by the Human Rights Council in resolutions 7/6 of 27 March 2008 and 16/6 of 24 March 2011. On 28 March 2014, the Council renewed the mandate of the Special Rapporteur, in resolution 25/5. The current mandate holder assumed her functions on 1 August 2011. The mandate of the Special Rapporteur is, inter alia, to promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through consultation with Governments.

2. The present report covers the period from January to December 2014. Chapter II contains an overview of the Special Rapporteur's activities during the reporting period. In chapters III and IV, the Special Rapporteur focuses on the thematic issue of hate speech and incitement to hatred against minorities in the media, and provides her conclusions and recommendations in chapter V.

II. Activities of the Special Rapporteur

A. Country visits

3. The Special Rapporteur visited Nigeria from 17 to 28 February 2014. With over 350 ethnic groups and even more languages, harmonious and peaceful inter-ethnic relations prevail in most of the country. However, violent intercommunal clashes have affected the North and Middle Belt regions, with the underlying causes of the violence including poverty, good governance deficits, impunity and polarization of ethnic and religious characteristics. Minority communities in the Niger Delta suffer from dire environmental degradation owing to frequent oil spills. They have been deprived of their traditional livelihoods and face difficulties accessing basic services. Language issues include the decline of numerous mother-tongue languages. The report on the visit is contained in document A/HRC/28/64/Add.2.

4. The Special Rapporteur visited Ukraine from 7 to 14 April 2014. Representatives of communities described a history of harmonious inter-ethnic and interfaith relations and a legislative, policy and social environment generally conducive to the protection of their rights, including cultural and linguistic rights. Nevertheless, minority issues became highly politicized as the situation of political and social unrest increased in 2014, particularly in the East, creating and widening fractures along national, ethnic and linguistic lines, and resulting in conflict. While challenges relating to minority issues include a lack of institutional attention to minority rights, she notes that minority rights have been inappropriately used to justify or support violent actions. The report on the visit is contained in document A/HRC/28/64/Add.1.

5. The Special Rapporteur thanks the Governments of Nigeria and Ukraine for their cooperation during her visits to the respective countries, and the Governments of Botswana, Brazil and the Russian Federation, respectively, for agreeing to visits in 2015. She also thanks the Government of Belarus for extending an invitation to conduct an official visit. She urges other States to which she has requested invitations to respond positively to her requests.

B. Communications

6. The Special Rapporteur received information from diverse sources about human rights violations perpetrated against national, ethnic, religious and linguistic minorities. Based on that information, she sent communications in the form of letters of allegation and urgent action letters relating to minority issues to the Member States concerned – most jointly with other relevant mandates. Those communications and the responses from the Governments concerned are available to the public in the joint communications reports of the special procedures submitted to the Human Rights Council.[1]

C. Additional activities

Events, conferences and outreach

7. On 16 and 17 January 2014, the Special Rapporteur participated in the second international colloquium on "Roma Segregated Housing as a Human Rights Challenge", organized in Madrid by the Office of the United Nations High Commissioner for Human Rights (OHCHR), Regional Office for Europe, and the Government of Spain.

8. On 17 and 18 January 2014, she gave the keynote speech on "The rights and security of religious minorities" at the International Conference-Symposium on "Religious Liberty and Religious Minorities", organized by the International Association for the Defence of Religious Liberty and Complutense University, in Madrid.

9. On 5 February 2014, the Special Rapporteur delivered a lecture at the Central European University, in Budapest, on "The role of the United Nations Independent Expert on minority issues", as part of the course "Peoples' Rights and Minority Rights".

10. From 4 to 6 March 2014, she participated in the first international meeting of "Global Action Against Mass Atrocity Crimes" (GAAMAC), in San José, where she addressed the role of prevention through urgent and coordinated actions in the light of early-warning signs.

11. On 26 March 2014, she gave a lecture at the Hungarian National Public Service University, in Budapest, on "The rights and challenges on Roma, possible policy responses and the role of the media".

12. On 12 May 2014, the Special Rapporteur delivered the 2014 annual Sabhal Mòr Ostaig lecture on the Isle of Skye, Scotland, in which she focused on the general United Nations framework for minority rights protection, with specific attention to the trends and concerns regarding linguistic minorities.

13. On 17 June 2014, she participated in the side event on "Caste-based violence against women and girls", organized by the International Dalit Solidarity Network, in Geneva. She discussed the role of special procedures in combating caste-based discrimination and violence.

14. On 18 June 2014, the Special Rapporteur participated in a panel discussion on "Preventative tools of human rights mechanisms in Geneva – Part I: Special Procedures Mandate Holders", organized by the Responsibility to Protect Core Group, in which she addressed how special procedures could help prevent human rights violations, particularly mass atrocity crimes, by identifying situations at risk.

[1] See www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

15. On 31 July and 1 August 2014, she participated in a conference in Krakow, Poland, organized by TernYpe International Roma Youth Network, to commemorate the 70th anniversary of Roma Holocaust Day on 2 August.

16. On 3 September 2014, she participated as a guest speaker in a seminar on "Incitement to hatred, xenophobia and related intolerance in cyberspace", in Minsk, which was organized by OHCHR and the Ministry of Foreign Affairs of Belarus.

17. On 18 September 2014, the Special Rapporteur participated as a panellist in the Human Rights Council panel discussion on "The role of prevention and protection of human rights", in Geneva.

18. On 24 September 2014, she participated as an expert in the round table on "Persons with albinism: violence, discrimination and way forward", organized by OHCHR and the Organisation Internationale de la Francophonie, in Geneva.

19. On 23 October 2014, the non-governmental organization (NGO) Committee on Freedom of Religion or Belief organized a discussion with the Special Rapporteurs on minority issues and on freedom of religion or belief, at the Bahá'í International Community New York Office.

20. On 19 November 2014, she participated in the round table on "The role of education in the prevention of atrocity crimes" organized by the Central European University, in Budapest, and on 20 and 21 November, she spoke at the 7th Budapest Human Rights Forum.

Statements

21. The Special Rapporteur issued public statements, many jointly with other mandates, highlighting issues of concern involving minorities,[2] including: on 26 March 2014, calling on the Vietnamese authorities to intervene in a case of forced eviction of the last remaining residents of Con Dau, home to a small Catholic community; 7 April, on the human rights situation of the Rohingya Muslim minority in Myanmar, raising the alarm on the further deterioration of their human rights situation; 8 April, marking International Roma Day, calling for inclusion of Roma in decision-making processes; 10 April, to the Cameroonian authorities regarding the eviction and demolition of houses of a Mbororo pastoralist community; 25 April, regarding the evacuation of religious minorities under threat in the Central African Republic; 19 May, expressing alarm to the Government of Sudan over the death sentence imposed on a pregnant Christian woman and urging the repeal of discriminatory legislation on the grounds of gender and religion; 21 May, to the Government of the Islamic Republic of Iran urging it to halt the execution of two Ahwazi Arab human rights activists.

22. The Special Rapporteur, together with other mandate holders, issued joint statements: on 2 July 2014, urging the Government of Sri Lanka to take measures to stop racial and faith-based hatred and violence against Muslim and Christian communities; 23 July, calling on the Government of Nigeria to address the situation of over three million internally displaced persons; 25 July, regarding threats to several minority groups in Iraq by the so-called Islamic State in Iraq and the Levant (ISIL); 31 July, to commemorate the 70th anniversary of the Roma Holocaust, calling on governments for stronger measures and initiatives to keep the memory of the Roma Holocaust alive; 12 August, warning of the danger of massacre of the Yazidi population in Northern Iraq by ISIL; 14 August,

[2] Links to the Special Rapporteur's press releases can be found on her webpage, www.ohchr.org/en/issues/minorities/iexpert/pages/ieminorityissuesindex.aspx.

expressing concern over Pakistani asylum seekers in Sri Lanka being detained and forcefully deported to Pakistan without adequate assessment of their asylum claims; 5 December, regarding two grand jury decisions in the United States not to bring to trial the cases of Michael Brown and Eric Garner, African-Americans killed by police.

D. Update on the Forum on Minority Issues

23. The Special Rapporteur was requested, in resolution 25/5, to guide the work of the Forum on Minority Issues, prepare its annual meetings and report on its recommendations to the Human Rights Council. The seventh annual session of the Forum was held in Geneva, on 25 and 26 November 2014, with a thematic focus on preventing and addressing violence and atrocity crimes against minorities.

24. Over 500 delegates participated, representing Member States from all regions, United Nations mechanisms, treaty bodies and specialized agencies, intergovernmental organizations, regional organizations, national human rights institutions and NGOs and including academics and experts on minority issues. Issues addressed included understanding the root causes of violence; improving prevention of violence and atrocity crimes; essential measures for resolution, protection and security once violence has broken out; and avoiding renewed violence through peace-building and managing diversity. Interventions identified challenges involving minorities as well as solutions and effective practices for preventing and addressing violence. Three side events were organized in the margins of the Forum on related themes. Recommendations from the Forum will be presented to the Council at its twenty-eighth session.

III. Hate speech and incitement to hatred against minorities in the media

A. Introduction

25. The Special Rapporteur is alarmed by the high number of complaints reaching her about hateful messages and incitement to hatred that have fuelled tensions and often led to hate crimes. In her 2014 report to the General Assembly (A/69/266), she focused on violence and atrocity crimes against minorities and listed cases of attacks against minority groups that she had brought to the attention of Member States concerned, either through communications (letters of allegation or urgent action letters) or public press releases. She believes that more should be done to monitor and react, in a timely manner, to hate speech and incitement to hatred and violence to prevent tensions and violence which damage the entire social fabric, unity and stability of societies. Tolerance and inaction reinforce the subordination of targeted minorities, making them more vulnerable to attacks, but also influencing majority populations and potentially making them more indifferent to the various manifestations of such hatred.

26. Although not all hateful messages result in actual hate crimes, hate crimes rarely occur without prior stigmatization and dehumanization of targeted groups and incitement to hate incidents fuelled by religious or racial bias. Few countries collect data on hate crimes, their causes and victims that would enable policy-makers to better protect population groups at risk.

27. In the United States, in 2013, the Federal Bureau of Investigation (FBI), Uniform Crime Reporting Program, recorded almost 6,000 hate crimes incidents: 48.5 per cent were racially motivated (66 per cent anti-Black, 21 per cent anti-White, 5 per cent anti-Asian,

4 per cent anti-American Indian or Alaska Native); 17.4 per cent were motivated by religious bias (59 per cent anti-Semitic, 14 per cent anti-Islamic, 6 per cent anti-Catholic); and 11.1 per cent stemmed from ethnicity bias (53 per cent anti-Hispanic or Latino biased).[3]

28. In Europe, in 2008, the Fundamental Rights Agency conducted a survey of 23,500 respondents from ethnic minority and immigrant groups to assess how many had been victims of assault, threat or serious harassment with a perceived racist motive. The survey found that between 16 per cent and 32 per cent of Roma, and between 19 per cent and 32 per cent of persons of African origin reported being victims of racial discrimination. Another survey of 5,900 respondents in nine European Union Member States found that up to one third of Jewish people had experienced verbal abuse or physical anti-semitic violence.[4] The Special Rapporteur considers that many incidents could be prevented with timely and appropriate responses to hateful messages, including through better representation and inclusion of minorities in mainstream communication platforms.

29. No country or society is free from hatred and it is most often those belonging to national, ethnic, religious and linguistic minorities who are the targets of hate. But what are the causes of such hatred and how does it evolve from a thought or a viewpoint to infect a whole society or result in acts of violence? This is an essential question that we must become better at answering if we are to effectively confront hatred in all its forms.

30. Hatred is often constructed, fuelled, maintained and directed by certain individuals or groups against other individuals and communities who are different, in ethnicity, language or religion from the dominant majority, often for political reasons or due to long-standing and entrenched discrimination. Hateful messages may fall on particularly fertile ground where there are wider social, economic or political problems or divisions in society. The root causes of hatred often lie beyond purely ethnic or religious difference.

31. Hatred very often stems from wider societal shortcomings, including the lack of or unequal access to resources; partisan politics; corruption; deficits in good and inclusive governance; and the reality or perception of bias and favouritism along ethnic or religious lines, which can fuel distrust, suspicion and anger. It was found that where inclusive governance, equality and human rights prevail and communities have placed trust in their leadership, there were fewer communal fractures and concerns about minority rights.

32. Governments, civil society and the international community must be alert to the warning signs of hatred and violence much earlier: when the first words of hate speech are uttered; when media start to promote negative stereotypes; or once there is an atmosphere of discomfort and animosity when minorities exercise their right to freely and openly practise their religion, use their language, or assert their right to have a voice in political life and the decisions that affect them.

33. Many States continue to lack domestic anti-discrimination and anti-hate speech laws and, even where they exist, implementation of the law is often poor and court cases are rare. States must not make quick or easy assumptions that minorities feel secure because of constitutions and laws that codify minority rights on paper. It is essential that States find ways to understand the feelings and concerns of minorities and that the required institutional attention to minority issues and consultative bodies and processes is in place.

34. The present thematic study provides an overview of the role of media in relation to hate speech and incitement to hatred and violence. It refers to the role of international standards and processes with regard to the prohibition of advocacy of national, racial or

[3] See www.fbi.gov/about-us/cjis/ucr/hate-crime/2013/topic-pages/incidents-and-offenses/incidentsandoffenses_final.

[4] See http://fra.europa.eu/sites/default/files/fra-brief_hatecrime_en.pdf.

religious hatred that constitutes incitement to discrimination, hostility or violence, and will address the major challenges to combating hate speech in the media. Different measures and good practices that can be implemented by States and civil society actors will be analysed.

B. Examples

35. There are numerous examples, both historical and present-day, of how media is used as a means of portraying minority groups in an offensive and stereotyped way and, in the most extreme cases, to directly incite violence. The Nazi regime used media for a massive propaganda campaign against Jews, Roma, Jehovah's Witnesses, homosexuals and others. A propaganda ministry controlled the media, exerting censorship on books and authors to suppress opposing viewpoints and to reinforce Nazi ideology of racial superiority and anti-Semitism. Jews were repeatedly portrayed as the cause of societal problems and dehumanized in the public discourse. Around six million Jews, as well as Roma and others were murdered in the Nazi Holocaust.

36. During the Rwandan genocide in 1994, media played a major role in supporting and inciting ethnic hatred and violence against Tutsi and moderate Hutu populations. The newspaper *Kangura* spread hatred against Tutsis, publishing articles and graphic cartoons in which Tutsis were attacked. A wider audience was reached by radio stations, which were key in transmitting hate propaganda and incitement to violence. Radio Rwanda and Radio Télévision des Milles Collines (RTML) instigated, encouraged and directed massacres. Hate messages broadcast during the genocide referred to Tutsis as "cockroaches" and issued instructions to kill them. Nearly one million people were killed.

37. In the post-9/11 era, Islam and Muslims have been subject to stigmatization and hostility in Western media. Certain media outlets have identified Islam with terrorism, which, according to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, is a major driver of resurgent Islamophobia around the world (E/CN.4/2006/17). Despite many civil society organizations delivering pro-Muslim discourses after the September 11 attacks, anti-Islamic fringe organizations have exploited mass media to spread messages of fear and anger. The former Independent Expert on minority issues noted in a report (A/HRC/13/23/Add.2) that members of Muslim and Arab communities in Canada stated that negative stereotypes had been reinforced since September 2001, including in the mass media, resulting in their reluctance to engage in public debate or raise their concerns.

38. Prejudices and entrenched stereotypes against Roma are common and Roma communities are frequently the target of degrading and inflammatory language. In 2013, the case of a young blonde girl who was found living in a Roma settlement in Greece, prompted a wave of anti-Roma reports and accusations that Roma had abducted her. Such allegations prompted additional allegations from other countries. The accusations were subsequently found to be unfounded. Indeed, they were made prior to a comprehensive investigation and were based on sensationalist media coverage. The Special Rapporteur called[5] on media and commentators to refrain from generalizations on the supposed criminality of Roma and warned that hateful rhetoric would trigger further stigmatization and even violence against Roma.

39. In the Central African Republic, hate speech has been recognized as having played a role in inflaming and fuelling violence and has been described by United Nations officials

[5] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13915&.

as a possible precursor to serious human rights violations, including potential genocide.[6] In March 2014, the United Nations Special Adviser on the Prevention of Genocide alerted the media that Muslims were being "deliberately and systematically targeted by the anti-Balaka" in attacks referred to as "cleansing operations". He referred to reports of hate speech by anti-Balaka (Christian armed groups) on public media referring to Muslims as "rotten potatoes" and public justification of their actions.

40. On 2 July 2014, the Special Rapporteur called on Sri Lanka to stop racial and faith-based hatred and violence directed at Muslim and Christian communities by Buddhist groups with extremist views, and to bring perpetrators to justice.[7] Various statements have promoted extremist views, proclaiming the racial superiority of Sinhala Buddhists and alleging that statues of Buddha are being bulldozed by religious minorities or that evangelical Christians are forcibly converting vulnerable people. Those statements reportedly contributed to over 350 violent attacks against Muslims and over 150 attacks against Christians in the past two years.

41. Social media is a fertile ground for radical and terrorist groups to spread hateful messages. ISIL uses online platforms, including Twitter, Facebook, Instagram and Youtube, to deliver updates on their actions as well as to reach out to potential donors and recruits, including posting videos and graphic material. The misuse of social media by ISIL has been described by the United Nations High Commissioner for Human Rights as "the product of a perverse and lethal marriage of a new form of nihilism with the digital age".[8]

42. Social media platforms have also been used to disseminate hate speech content against groups, which has fuelled intercommunal tensions and led, in some cases, to violent clashes among communities. Following a country visit in July 2014, the Special Rapporteur on the situation of human rights in Myanmar expressed her concern over the spread of misinformation, hate speech and incitement to violence, discrimination and hostility in the media and Internet, particularly targeted against Muslim communities.[9]

C. International legal framework

43. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity" and requires that States adopt appropriate legislative and other measures to achieve those ends (art. 1). The Declaration also emphasizes that persons belonging to minorities "have the right to enjoy their own culture, to profess and practise their own religion, and to use their language, in private and in public, freely and without interference or any form of discrimination" (art. 2.1). The commentary on the Declaration[10] encourages States to adopt laws protecting against acts or incitement to acts which physically threaten the existence of groups or threaten their identity.

44. The Convention on the Prevention and Punishment of the Crime of Genocide recognizes that genocide is an international crime, which entails the national and international responsibility of individual persons and States. According to article 3 of the

[6] See www.unmultimedia.org/radio/english/2014/03/hate-speech-in-the-central-african-republic-may-be-precursor-to-genocide/.
[7] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14812&LangID=E.
[8] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15173&LangID=E.
[9] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14910&LangID=E.
[10] See www2.ohchr.org/english/issues/minorities/group/11session.htm.

Convention, the following acts shall be punishable: (a) genocide; (b) conspiracy to commit genocide; (c) direct and public incitement to commit genocide; (d) attempt to commit genocide; and (e) complicity in genocide.

45. The International Covenant on Civil and Political Rights prohibits "any propaganda for war" as well as "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (art. 20).

46. The International Convention on the Elimination of All Forms of Discrimination obligates States to condemn "all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination" (art. 4). Furthermore, three situations constitute offences punishable by law: (a) all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) organizations, organized and all other propaganda activities which promote and incite discrimination—which must be declared illegal and prohibited—, and participation in such organizations or activities; (c) promotion or incitement of racial discrimination by public authorities or public institutions, national or local.

47. In its general recommendation No. 35 (2013) on combating racist hate speech, the Committee on the Elimination of Racial Discrimination stresses, inter alia, the role of racist hate speech in processes leading to mass violations of human rights and genocide and in conflict situations and points out that racist hate speech can emanate from individuals or groups, can be disseminated orally, in print, through electronic media (Internet, social networking sites), as well as by non-verbal expression (racist symbols, images, behaviour at public gatherings). It emphasizes that media representations of ethnic, indigenous and other groups should be based on principles of respect, fairness and the avoidance of stereotyping. It formulates specific recommendations, including the adoption of appropriate legislation in line with international standards, the establishment of codes of professional ethics and press codes, the promotion of media pluralism and the facilitation of access to and ownership of media by minorities.

48. The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence[11] constitutes a comprehensive framework to assist States in implementing their obligations to combat incitement to hatred. It contains specific recommendations and guidance on balancing freedom of expression enshrined in article 19 of the International Covenant on Civil and Political Rights, with the prohibitions in article 20, through a six-part threshold test for forms of speech that are prohibited under criminal law. Among the key factors put forward in the Plan to prevent incitement to hatred are the collective responsibility of States, media and society, and the need to foster social consciousness, tolerance, mutual respect, and intercultural dialogue.

49. The African Charter on Human and Peoples' Rights does not contain provisions referring specifically to the prohibition of incitement to national, racial or religious hatred. However the Charter states that: "all peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another" (art. 19) and that "every individual shall have the duty to respect and consider his

[11] See www.ohchr.org/documents/issues/opinion/seminarrabat/rabat_draft_outcome.pdf.

fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance" (art. 28). The American Convention on Human Rights states that: "any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law" (art. 13.5).

50. The European Court of Human Rights, in its recommendations and jurisprudence on the European Convention on Human Rights, has identified a number of forms of expression which are considered offensive and contrary to the Convention, including racism, xenophobia, anti-Semitism, aggressive nationalism and discrimination against minorities and immigrants.[12] The Court makes a distinction between genuine and serious incitement to extremism and, on the other hand the right of individuals (including journalists and politicians) to express their views freely and to "offend, shock or disturb" others. Other relevant standards include the Council of Europe Convention on Cybercrime and its Additional Protocol and the Council Framework Decision 2008/913/JHA on combating certain forms and expression of racism and xenophobia by means of criminal law.

IV. Factors that lead to hate speech and incitement to hatred in the media

51. Hate speech has been described as "the special scourge of minorities and indigenous peoples".[13] Unfortunately, hate speech and incitement to hatred are on the rise in many countries across all continents and these hateful messages are frequently transmitted through traditional media and the Internet. A number of factors are involved in making minority groups the targets of hate speech in the media.

A. Absence of or unclear legislation on incitement to hatred

52. There is no universally accepted definition of "hate speech". The term encompasses a wide array of hateful messages, ranging from offensive, derogatory, abusive and negative stereotyping remarks and comments, to intimidating, inflammatory speech inciting violence against specific individuals and groups. Only the most egregious forms of hate speech, namely those constituting incitement to discrimination, hostility and violence, are generally considered unlawful. Cultural paradigms must be understood and taken into account when considering whether certain comments or images constitute hate speech, incitement or defamation, and States have a margin of appreciation in establishing such thresholds. Nevertheless, a balance must be struck that does not unduly restrict the rights of individuals or place individuals under the threat of violence.

53. Discussion over what constitutes hate speech poses a recurring dilemma vis-à-vis the right to freedom of expression and its limits. It remains necessary to protect freedom of expression while at the same time guaranteeing the rights of others, public order and, in some cases, national security. Nevertheless, as stressed by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, far from being

[12] Council of Europe, Recommendation No. R 97 (20) of the Committee of Ministers to Member States on "hate speech", adopted on 30 October 1997, at the 607th meeting of the Minister's Deputies.

[13] Susan Benesch, "Defining and diminishing hate speech", in *Freedom from hate, State of the World's Minorities and Indigenous Peoples 2014*, Peter Grant, ed. (London, Minority Rights Group International, July 2014).

incompatible, the right to freedom of opinion and expression and the prohibition of incitement to hatred are "mutually supportive", as the public debate of ideas as well as interfaith and intercultural dialogue can prevent hate and intolerance.[14]

54. In order to develop consistent and effective legislation and measures to prohibit and penalize incitement to hatred, hate speech should not be confused with other types of inflammatory, hateful or offensive speech. As experts have stated,[15] the intended or actual effects of speech can be a useful indicator to distinguish incitement to hatred from other categories of hate speech: in the case of incitement to hatred, the speaker seeks to provoke reactions on the part of the audience, specifically to influence the audience to share the views expressed or implied in the speech and to respond against the victim groups with hostility, discrimination or violence.

55. The Council of Europe Committee of Ministers uses a broader approach: "the term "hate speech" shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."[16]

56. Lack of clear definitions of the content and elements of the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to hatred, in legal systems, may lead to misapplication of the law, including the use of anti-hate speech legislation to persecute and suppress critical or dissenting voices.[17] For example, so-called "blasphemy laws" may result in the censure of inter- and intra-religious dialogue, debate and criticism; many of those laws are also applied in a discriminatory manner, as they offer different levels of protection to different religious beliefs.[18] As highlighted by the Special Rapporteur on freedom of religion or belief, "the risk that legal provisions prohibiting hate speech are interpreted loosely and applied selectively by the authorities underlines the importance of having unambiguous language and of devising effective safeguards against abuses of the law".[19]

57. A series of consultations involving OHCHR, civil society and academics were held to provide a clearer definition of the key terms contained in article 20, paragraph 2, of the International Covenant on Civil and Political Rights, one of which resulted in "The Camden Principles on Freedom of Expression and Equality".[20] Principle 12 states as follows: (a) the terms "hatred" and "hostility" refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group; (b) "advocacy" must be understood as requiring an intention to promote hatred publicly towards the target group; (c) "incitement"

[14] See A/67/357.

[15] See, for example, www.ohchr.org/Documents/Issues/Expression/ICCPR/Others2011/SBenesch.doc.

[16] Council of Europe, Recommendation No. R 97 (20) of the Committee of Ministers, appendix (see note 12 above).

[17] See A/67/357.

[18] Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred, section 19 (see note 11 above).

[19] Joint submission by special procedures to Office of the High Commissioner for Human Rights (OHCHR) 2011 Expert workshop on the prohibition of incitement to national, racial or religious hatred for Europe, held in Vienna, 9 and 10 February 2011. Available from www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/CRP3Joint_SR_submission_for_Vienna.pdf.

[20] See www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf.

refers to statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups; (d) the promotion, by different communities, of a positive sense of group identity does not constitute hate speech.

58. A six-part test has been developed by the NGO Article 19 to determine the appropriate threshold for assessing the types of expressions constituting "incitement to hatred":[21] (1) context of the expression, including consideration of existing conflicts within society, existence and history of institutionalized discrimination, history of clashes and conflicts over resources, the legal framework and the media landscape. In relation to media, issues to be examined include censorship, existence of barriers to establishing media outlets, limits to the independence of the media or journalists, broad and unclear restrictions on the content to publish or broadcast and evidence of bias in the application of the restrictions, absence of criticism of government or wide-ranging policy debate in the media and access by the audience to a range of alternative and easily accessible views and speeches; (2) speaker, including consideration of his/her official position, level of authority or influence over the audience and whether the statement was made by a person in his/her official capacity. Politicians and public officials or persons of similar status should be given special consideration; (3) intent of the speaker to incite hatred, not mere recklessness or negligence; (4) content of the expression, including what was said, the targeted audience and the targeted potential victims, tone and form of the speech; (5) extent and magnitude of the expression, including the means of dissemination (press, audiovisual media, work of art, etc.); (6) likelihood of harm occurring, including its imminence.

59. As underscored by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/66/290), it is necessary to differentiate between illegal expression, which States are required to prohibit under international law, and expression considered harmful, offensive, objectionable or undesirable, but which States are neither required to prohibit or criminalize. It is important to differentiate between three types of expression: (a) expression constituting an offence under international law that can be prosecuted criminally; (b) expression not criminally punishable but that may justify a restriction and a civil suit; (c) expression that does not give rise to criminal or civil sanctions but still raise concerns in terms of tolerance, civility and respect for others. Negative or stereotyped characterizations of minority groups may fall under any of those three categories.

60. The Special Rapporteur considers that, while much attention is rightly paid to legal responses to hate speech, equal attention and discussion should be dedicated to non-legal and social responses. She was impressed by community initiatives, in which hate groups have been confronted and halted by ordinary citizens,[22] and alternative and creative ways that have been initiated to tackle hate speech.

61. Although several constitutions and legislative acts regulate incitement to hatred, practice in respect of national case law differs greatly. In African societies, the importance of traditional conflict resolution methods, the limited number of applicable modern judicial remedies, the lack of public awareness of such remedies, and the weakness of national policies to prevent incitement to hatred were identified as contributing factors to low levels

[21] Article 19, "Prohibiting incitement to discrimination, hostility or violence", Policy Brief 2012, pp.27–40.

[22] See, for example, the Not In Our Town initiative at www.niot.org.

of prosecution.[23] In the Americas, judicial decisions have been made in Argentina, Brazil, Canada, Colombia, Peru and the United States of America, but none has been made in Central America or in the Caribbean.[24]

B. Negative/stereotyped portrayal and lack of representation of minority groups in the media

62. Minorities are often portrayed in a stereotyped manner in the media, through broad generalizations of perceived characteristics of the group as a whole, which, in many cases, are negative or derogatory. The repeated presentation of broad negative stereotypes of minority groups, as, for example, criminals, violent, untrustworthy, disloyal, alien or dirty, nurtures inaccurate and false assumptions and opinions that may eventually develop into discriminatory attitudes and entrenched prejudices. Stereotypes may have the objective of or result in stigmatizing and dehumanizing whole communities.

63. There is a broad spectrum of either deliberate or unintentional negative stereotyping of minority groups in the media, ranging from emphasis on the ethnic or religious background of a person responsible for an offence or repeated association of derogatory and dangerous characteristics with specific groups, to the most virulent attacks against minority members, which commonly highlight alleged differences between "us" versus "them". In some cases, there is direct incitement to violence. Such negative portrayals may reinforce entrenched views of ethnic or religious minorities as "others" and perpetuate ideas of structural disadvantage and inequality, as they fail to present a broader and more accurate representation of the situation and challenges faced by minority groups.[25]

64. Studies[26] reveal that poor reporting by the media on features such as ethnicity and religion involves, inter alia, labelling, selected use of data, generalizing incidents, negative stereotyping, giving one side of a story, use of derogatory words, mixing facts and views, absence of fact checking, and mismatching of the content of the text and headlines, images and sound. Lack of knowledge about ethnic and religious issues by media reporters, absence of in-house training, poor financial situation of media outlets, heavy workload and scarce time to prepare reports were highlighted as obstacles to good, unprejudiced reporting.

65. Pluralistic media is key to providing independent and objective information as it incorporates diverse viewpoints. Media diversity not only refers to the existence of varied media outlets but to the access to mass media by minority groups, as well as to the existence of a plurality of viewpoints within media outlets. Underrepresentation of minorities in the media means that their voices and influence are absent to counter negative expressions. Minorities face numerous challenges both in their access to and representation in the media.

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[23] OHCHR, "Study on the prohibition of incitement to national, racial or religious hatred in Africa", by Doudou Diène, Workshop for Africa, Nairobi, 6 and 7 April 2011. Available from www.ohchr.org/Documents/Issues/Expression/ICCPR/Nairobi/NairobiStudyE.pdf.

[24] OHCHR, "Study on the prohibition of incitement to hatred in the Americas", by Eduardo Bertoni, Workshop for the Americas, Santiago, 12 and 13 September 2011. Available from www.ohchr.org/Documents/Issues/Expression/ICCPR/Santiago/SantiagoStudy_en.pdf.

[25] Simon Cottle, ed., *Ethnic Minorities and the Media: Changing Cultural Boundaries* (Berkshire, Open University Press, 2000).

[26] Verica Rupar, Media Diversity Institute, *Getting the facts right: reporting ethnicity and religion* (Brussels, International Federation of Journalists, 2012).

66. There are few statistics available about representation of minorities in media organs due to the lack of disaggregated data. One study in the United Kingdom confirmed a gross imbalance between white and ethnic minority journalists in relation to training and employment patterns and opportunities within the news media. Only 0.5 per cent of national newspaper journalists and only 0.2 per cent of provincial press journalists were Black or Asian. In the broadcasting industry, an estimated 2.7 per cent of editorial staff were Black or Asian. While equal opportunities policies, ethnic minority monitoring and training schemes of the BBC have helped, half of all Black staff work on black-only radio and television programmes.[27]

67. Access by minority groups to the media in many countries is limited or completely restricted. Persons belonging to linguistic minorities are typically disadvantaged in the media marketplace, and the resulting lack of linguistic plurality within the media has been referred to as "soft assimilation", in that the only available media is in the language of the majority, which fails to reflect minority needs, preferences and issues.

68. The Committee on the Elimination of Racial Discrimination, in its general recommendation No. 35 (2013) on combating racist hate speech, stressed the importance of media pluralism to counter racist hate speech and highlighted that it entails "facilitation of access to and ownership of media by minority, indigenous and other groups …, including media in their own languages" (para. 41). Representation of minority groups in the media is a crucial means to promote the participation of minorities in society and to incorporate pluralistic approaches. The Council of Europe has stressed the fundamental role of minority media in both playing a mediating role between communities and providing access to minority networks and to alternative sources of information.

69. While minority media can fulfil an important role in preserving language, culture and minority identity, it has very limited potential to balance negative stereotyping, stigmatization, homogenization or fight back against hate speech emanating from mainstream media. This is partly due to the fact that minority media tends to be accessed by minority audiences and messages broadcast by them are often regarded as inferior by the society at large, compared to differing majority media viewpoints.

70. Representation of minority groups in mainstream media is essential to ensure diversity in content and in the make-up and structures of media bodies themselves. However, this is hindered by the constant struggle of media organs to survive in competitive marketplaces where priorities are to reach maximum audiences and advertisers. The perception is that those goals can be best achieved by catering to the needs and interests of majority populations, so minority interests, voices and opinions tend be marginalized.[28] The recruitment of journalists and media workers with diverse ethnic, religious and linguistic backgrounds in today's multicultural societies is a pressing need to achieve a more objective and "stereotype-free" media.

C. Structural inequalities

71. Some scholars consider the right to freedom of expression as absolute, suggesting that democratic societies should not permit the exclusion of any views, even if they are offensive or inflammatory. Such theories often fail to recognize the fundamental existence

[27] Simon Cottle, ed., *Ethnic Minorities and the Media: Changing Cultural Boundaries* (Berkshire, Open University Press, 2000).

[28] See OSCE-ODIHR, "Incitement to Hatred vs. Freedom of Expression: Challenges of combating hate crimes motivated by hate on the Internet", report of Expert Meeting held in Warsaw, 22 March 2010. Available from www.osce.org/odihr/68750?download=true.

of structural inequalities in society, which make some more vulnerable, including to attack, whether verbal or physical. Many examples from different regions demonstrate the connection between hate speech and violence and that there are legitimate grounds to limit freedom of speech when it is motivated by or seeks to incite racial, religious or other forms of hatred.

72. It is difficult to talk about upholding the values of democracy and equality if certain groups are completely excluded from participating in or shaping that democracy in practice. If marginalized communities lack access to public platforms and communication channels, they have no possibilities to influence public opinion or to seek and obtain justice. Roma communities struggle to respond to hate speech in mass media from far-right groups and political parties, since Roma are almost completely excluded from mainstream media platforms. Where communities are regarded as inferior in any society, their voices will also be treated as inferior, regardless of how loudly they shout and how valid their concerns.

73. Action to address hate speech and hate crime must engage majority communities, including politicians, intellectuals, celebrities and ordinary people concerned about hatred in their societies, to join marginalized and disadvantaged minorities in demanding human rights, equality and human dignity for all. Such coordinated struggle must include legislative steps, but also requires swift and efficient social responses. If hate incidents are not tackled early, targeted groups may experience permanent damage to their self-esteem and sense of belonging within their societies, thereby increasing their marginalization. Majority communities may also gradually become desensitized to hate speech, to the point where they begin to accept the hostility and stigmatization against certain groups in their societies.

D. Changing media landscape

74. Media, in all its diverse forms, is an essential component of today's societies, providing huge benefits and possibilities, including in the field of minority issues and inter-faith or intercommunity cohesion. Media offers immediacy in communication and exchange of information, often in different languages and representing different ethnic, religious and cultural viewpoints, which can reach all audiences.

75. The format of the media environment has undergone a dramatic transformation to host Internet and online media platforms, allowing live interaction and more rapid outreach worldwide. In the digital age, media has also widened its scope to include social media, where people share and/or exchange information, ideas and initiatives across vast national and international networks and virtual communities. New forms of online media which allow those who advocate hate speech or cyberhate to easily access large audiences are subject to less regulation than traditional media and provide anonymity to those who wish to exploit it.

76. While digital media has provided new spaces for minority groups to participate in the public debate, the accessibility, rapidness and relative anonymity provided by the Internet also provide fertile ground for spreading hateful content. Hate speech on the Internet adopts many forms and is disseminated through different digital platforms[29] — from highly organized hate groups which recruit, radicalize and instruct followers to attack targeted groups; the issuing of "hit lists" containing calls for violence against individuals; "cyberbullying", which targets primarily youth and often originates from racial, ethnic or religious bias; dissemination of propaganda, misinformation and hate spam; exchange of

[29] Ibid.

information and ideas via social media networks, discussion groups, listservs and communities of interest.[30]

77. The anonymity of the Internet poses particular challenges when it comes to tracking and prosecuting the authors of content that might incite hatred and violence. Material can be shared worldwide and hosted by Internet service providers (ISPs) subject to various legislations with diverse degrees of protection against hate speech. Racist hate websites are commonly hosted in jurisdictions considered favourable to or tolerant of hate speech and can easily relocate to another permissive jurisdiction if blocked or banned.

78. Given that social media platforms are mostly self-regulating and therefore dependent on reporting by users of material perceived as hateful or harmful, their content can be accessible until it is ultimately flagged by community members as material contravening the site's guidelines. In addition to legislative and jurisdictional challenges, there are technical difficulties involved in removing hate-inciting material from the Internet.

79. Online media and communication platforms make it easier for extremist groups to organize themselves, even transnationally. In Europe, anti-immigrant populist radical-right political parties increased their representation in the European Parliament from only 8 per cent in 2009 to close to 15 per cent in the 2014 election. This rise of ethno-nationalist right-wing parties is also a consequence of the trend towards less extreme "hate" language and more sophisticated and "moderate" manifestations of far-right messages which appeal to a wider group of voters, resulting in their having a bigger impact on mainstream society.[31]

V. Good practices for addressing and responding to hate speech and incitement to hatred in the media

80. Despite the countless examples of hate speech and incitement to hatred against minorities in the media today, there are also many measures and initiatives involving and implemented by the media to contest hateful speech and incitement to hatred, and counter its pernicious effects.

A. Education and media literacy

81. Human rights education as well as education for respect of diversity is of paramount importance to fostering a tolerant society, but is not sufficient: it must be complemented by education on the responsible use of the Internet and social media by citizens, particularly children and young people, so as to counter hate speech exposure and minimize other risks, such as cyberbullying. Several relevant initiatives to promote media literacy are led by States, international organizations and civil society, such as those presented below.

82. In 2012, the Council of Europe launched the "No hate speech movement",[32] a campaign directed towards youth with the objective of combating online hate speech in all its forms. The campaign is part of the project "Young People Combating Hate Speech

[30] Tarlach McGonagle, "The Council of Europe against online hate speech: Conundrums and challenges", Expert paper, MCM(2013)005, Council of Europe Conference of Ministers responsible for Media and Information Society, Belgrade, 7 and 8 November 2013. Available from www.ivir.nl/publicaties/download/1088.

[31] Catherine Fieschi, Marley Morris, Lila Caballero, eds.,Populist fantasies: European revolts in context (U.K., Counterpoint, 2013). Available from http://counterpoint.uk.com/wp-content/uploads/2013/10/Populist-Fantasies-European-revolts-in-context.pdf.

[32] See www.nohatespeechmovement.org/.

Online, 2012-2014", which aims to equip young people with competences to recognize and act against hate speech, racism and discrimination in their online expression.

83. The United Nations Alliance of Civilizations, established in 2005, is a United Nations entity tasked to assist in diminishing hostility and promoting harmony among nations in order to prevent conflict and promote social cohesion. The Alliance has engaged in media and information literacy initiatives to teach media consumers how to critically interpret information received. Those initiatives include a media and information literacy clearing house (milunesco.unaoc.org), the creation of a global network of universities, and the coordination of workshops for educators and publications.

84. In April 2014, Rwanda Media High Council, in partnership with the African Media Initiative and the Ethical Journalism Network, launched the campaign "Turning the Page of Hate Media in Africa", coinciding with the 20th anniversary of the genocide. The campaign aims to promote ethical, tolerant and inclusive journalism, good media governance and responsible communications through the open information landscape, and includes a guideline document to test for hate speech in journalism practices.

B. Establishment of specialized institutions

85. Dedicated institutional attention to minority issues, including monitoring and responding to hatred targeted against minorities, is essential to prevent atrocities and reinforce unity and stability. This is even more important following violence or conflict, as part of transitional justice and reconciliation processes.

86. During the disputed presidential elections in Kenya in 2007, violence, triggered by hate speech and incitement to hatred by political and religious leaders in the media, left more than 1,000 people dead and half a million displaced. As a result, Kenya established the National Cohesion and Integration Commission, tasked to promote ethnic harmony and investigate complaints of ethnic or racial discrimination or any issue affecting ethnic and racial relations. The Commission has been tackling hate speech through action, including the development of guidelines for media outlets, training manuals for law enforcement officers, workshops and conferences.

C. Promotion of ethical standards, regulatory bodies and participation of minorities in media outlets

87. Media outlets can actively engage in fighting incitement to hatred and violence in the media by adopting principles and guidelines of ethical and responsible journalism to improve the quality of information and reporting to avoid bias, prejudice and manipulation, as well as by promoting diversity among media workers and investing in adequate training for media professionals.

88. In April 2014, the International Federation of Journalists adopted the "Brussels Declaration"[33] to combat incitement to hate and violence through media. The Declaration made recommendations to journalists and their unions aimed at upholding the principles and ethics of responsible journalism, including denouncing incitement to hatred whenever identified, ensuring knowledge of codes and guidelines by media workers, promoting education and training of journalists as well as encouraging diversity in media outlets.

[33] See www.ifj.org/nc/news-single-view/backpid/191/article/ifj-conference-agrees-declaration-to-stand-up-against-hate-speech/.

89. Ethics codes play an important role in guiding press workers on how to report objectively and responsibly. The Press Ethics Code of Benin emphasizes that "Journalists must refuse to publish any incitement to tribal, racial and religious hatred. They must make a stand against all forms of discrimination" (art. 10). Singapore's Internet Code of Practice considers as prohibited material that "glorifies, incites or endorses ethnic, racial or religious hatred, strife or intolerance" (art. 4 (2)(g)).

90. Independent regulatory bodies, such as media watchdogs, councils and ombudsmen, monitor media reporting, identify and report on hateful content and reinforce ethical standards. However, regulatory media bodies must not unduly censor media sources and must comply with international standards. The Press Council in Bosnia-Herzegovina monitors the application of the Press Code and the investigation of complaints. In 2014, in the context of the general elections campaign, it launched the campaign "STOP! Hate Speech!".

91. Several self-regulatory media bodies have started to operate in Africa, some of them in countries with a history of hate speech and incitement to violence against minority groups. The Rwanda Media Commission was established in 2013 with the mandate to promote ethical journalism, defend media freedom and adjudicate complaints against the media; some commentators have alleged censorship and serious restrictions on media freedoms.

92. Media self-regulatory bodies in the Americas include the Ethics Committee of the Journalism National Council in Panama.[34] The Committee brings together journalists, media owners, civil society, academics and the Office of the Ombudsman and receives and responds to complaints about journalism practices.

93. Participation of minorities in the media landscape encompasses the possibility for minority professionals to work in media outlets. Some media outlets have developed specific programmes and internships to recruit and train minority media workers in order to promote ethnic diversity in the newsrooms and press offices.

D. Civil society initiatives to address hate speech

94. Civil society organizations have developed innovative approaches and actions to combat hate in the media, including the Internet. Those actions include identifying hate trends, tracking and monitoring hate speech websites, notifying potentially affected or targeted communities about hate activities, working closely with Internet providers and governmental agencies to report hateful content and providing online educational materials and training programmes.

95. Studio Ijambo was launched in 1995 by the organization Search for Common Ground to address inter-ethnic violence in Burundi. The programme aimed to establish a platform to promote dialogue and tolerance through radio, in contrast to hate speech and incitement in radio programmes in neighbouring Rwanda. The station uses different formats, including debates and discussion programmes, soap operas, sketches and interactions between political leaders and youth, for example. Twenty years on, the model is considered a success and has been replicated in other African countries, including the Democratic Republic of the Congo, where radio has been used to promote constructive messages about conflict resolution.

[34] Report of the Expert Workshop for the Americas, Santiago, 12 and 13 October 2011, available from www.ohchr.org/Documents/Issues/Expression/ICCPR/Santiago/MeetingReportSantagio.pdf.

96. The Umati project in Kenya emerged out of concern that mobile and digital technologies had played a catalyzing role in the 2007–2008 post-election violence in the country. The project seeks to better understand the use of dangerous speech in Kenyan online space, by monitoring blogs, forums, online newspapers, Facebook and Twitter. From October 2012 to November 2013, over 7,000 incidents of hate speech in English and local languages were identified. They were shared with other Kenyan organizations responsible for countering hate speech.

97. The Panzagar Movement ("flower speech campaign") in Myanmar was initiated in April 2014 by a Burmese blogger and human rights activist concerned by hate speech against Muslim citizens in social media. The Movement was launched under the slogan "Let's moderate our speech to prevent hatred among human beings" and is actively engaged in social networks.

98. Norikoe Net is a Japan-based group working to overcome hate speech and racism, often targeted against Koreans, in Japan. The group joined forces with others to collectively counter racism and hate speech by organizing anti-hate speech events and protests and pushing for the enactment of anti-discrimination legislation in Japan.

99. Some initiatives seek to involve ISPs in combating online hate speech, by advocating the implementation of reporting mechanisms for illegal material posted on their services, identifying hateful content that violates the terms of service or code of conduct of the ISPs and requesting the ISPs concerned to remove it. The Anti-Defamation League (ADL) has been actively involved in combating online hate speech through close collaboration with ISPs as well as law enforcement agencies, and providing training resources and educational materials on hate crimes.

100. Civil society organizations have formed networks to combat cyberhate, lobby for international legislation against discrimination on the Internet and exchange information and best practices. The International Network Against CyberHate (INACH) comprises 15 organizations from different countries with the purpose of uniting and empowering organizations to promote respect, responsibility and citizenship on the Internet through countering cyberhate and raising awareness about online discrimination.

VI. Conclusions and recommendations

101. **Hatred is often constructed, fuelled, maintained and directed by certain individuals or groups against other individuals and communities who are different in ethnicity, language or religion from the dominant majority, often for political reasons or owing to long-standing and entrenched discrimination. Hateful messages may fall on particularly fertile ground where there are wider social, economic or political problems or divisions in society. The root causes of hatred often lie beyond purely ethnic or religious difference and must be better understood.**

102. **It is essential to recognize how, in the longer term, hate speech and incitement can endanger social cohesion and create or deepen intercommunal divides and tensions. Action to address hate speech and hate crime must engage majority communities, including politicians, intellectuals, celebrities and ordinary people concerned about discrimination and hatred in their societies, to join marginalized and disadvantaged minorities in demanding human rights, equality and human dignity for all. Such coordinated action must include legislative steps and swift and efficient social responses. If hate incidents are not tackled quickly and effectively, targeted groups may experience permanent damage to their self-esteem and sense of belonging within their societies, increasing their marginalization. Majority communities may gradually become desensitized to the hostility in their societies targeted against minority groups.**

103. **Traditional and contemporary media have enormous potential to foster knowledge, understanding and acceptance of diversity. Media can also be misused as a forum for stigmatization, discrimination, exclusion and, in the worst cases, incitement of violence. Contemporary media, particularly new digital media, due to its immediacy, universal scope, accessibility, interactive nature and the difficulty of regulating it, have become accessible platforms for spreading hate speech.**

104. **Several factors influence the extent and prevalence of hate speech in the media, including the absence of or unclear legislation on incitement to hatred, negative and stereotyped portrayal of minorities, limited access and representation of minorities in the media, structural inequalities, the changing media landscape and the emerging and more organized forms of extremist and populists movements.**

105. **The Special Rapporteur urges States to adopt domestic legislation, in conformity with article 20 of the International Covenant on Civil and Political Rights, prohibiting any "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence".**

106. **Legislation must fully respect the right to freedom of speech and expression and avoid any arbitrary or abusive interpretation of anti-hate speech laws. States should establish proportionate thresholds for the assessment of forms of expression which may amount to incitement to hatred, including careful consideration, on a case-by-case basis, of the context, speaker, intent, content, extent or magnitude and likelihood or probability of harm occurring. Legislation prohibiting incitement to hatred should provide effective and adequate remedies to victims, including civil remedies for damages, and guarantee the right of correction and reply.**

107. **The Special Rapporteur calls upon all States to adopt the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence when implementing or revising their domestic legal framework on hate speech.**

108. **The Special Rapporteur emphasizes that there are several non-legal ways and means to tackle hate speech. Public condemnation of hate speech by political leaders, parliamentarians, party members, other public figures and community leaders can shape public perceptions and contribute to unity and social cohesion. Democratic political parties need to find effective tools and outreach strategies to counterbalance hate messages spread by extremist forces and parties.**

109. **The establishment of institutions dedicated to minority issues, with mandates to train, monitor and act on issues relevant to intercommunal relations and harmony, objective portrayal of and peace between diverse population groups, especially regarding relevant threats, such as incitement to religious or racial hatred, is desirable.**

110. **Media outlets should maintain the highest standards of ethical journalism, avoid stereotyping of individuals and groups and report in a factual and impartial manner. Media outlets should adopt codes of ethics and conduct for the exercise and promotion of ethical standards. The participation of minority professionals in media outlets in all roles and levels is essential to ensuring objective and non-stereotypical portrayal of minorities. Media outlets should implement programmes to train, recruit and support media workers belonging to minority groups.**

111. **Specific training in minority issues should be provided to media professionals by media outlets to help journalists improve coverage and produce accurate, in-depth and informed reporting on minority-related issues.**

112. The Special Rapporteur encourages the establishment of national, independent regulatory bodies, including representatives of minorities, with powers to monitor hate speech in the media, receive reports from the public in relation to hate speech, receive and support complaints, and make recommendations.

113. While recognizing the technical and operational difficulties in combating online hate speech, the Special Rapporteur encourages States to take specific measures, including specialized training of law enforcement bodies and prosecutors, to address hate crimes and incitement to hatred on the Internet, and to exchange information and best practices at the international level.

114. Internet service providers (ISPs) should establish detailed terms of service, guidelines and notice-and-takedown procedures regarding hate speech and incitement, in line with national legislation and international standards, and ensure transparent implementation of those polices. The Special Rapporteur encourages ISPs to collaborate with government and civil society organizations to combat hate speech, including providing adequate channels for the reporting of illegal hateful content posted on their services.

115. Education to promote intercultural understanding, mutual respect and tolerance among population groups is essential to eliminating stereotypes and prejudices against minority communities. Human rights education should be an important part of school curricula, which should also include the history, culture and traditions of minority groups as well as their important contribution to enriching our societies.

116. Media literacy is essential to providing youth and adults with adequate tools and resources to develop critical thinking in order to question the accuracy, bias and impact of the information provided by the media. The Special Rapporteur recommends that States include key functions of media literacy in school curricula at all stages with special focus on the online environment.

117. The Special Rapporteur welcomes the commendable work of civil society in conducting public-awareness campaigns to combat hate speech, including on the Internet. She encourages States to work collaboratively with and support those organizations and projects, including providing financial support.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on minority issues, Rita Izsák

Addendum

Mission to Ukraine* **

Summary

The overwhelming majority of the minority and other representatives consulted by the Special Rapporteur on minority issues during her visit to Ukraine described a history of harmonious inter-ethnic and inter-faith relations and a legislative, policy and social environment that was generally conducive to the protection of their rights, including cultural and linguistic rights. Nevertheless, minority issues have become highly politicized as the situation of political and social unrest has emerged in some regions since February 2014. That threatens to create and widen fractures along national, ethnic and linguistic lines and undermine peaceful coexistence if not quickly resolved. An end to violence and constructive consultations on minority rights must be primary objectives for all stakeholders.

The overall human rights and minority rights situation and the civil and political, economic, social and cultural conditions experienced by minorities cannot justify any violent action or incitement and support of such action by any party, national or international. While there are challenges relating to minority issues, some radical elements are intent on promoting and inciting disunity. It is essential to establish a process of national and regional dialogue with the objective of understanding the concerns and issues of all minority communities and ensuring that they are addressed appropriately and rapidly

* The summary of the present report is being issued in all official languages. The report itself, contained in the annex to the summary, is being issued in the language of submission and Russian only.

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through democratic mechanisms and not through recourse to force or coercion. Moderate voices must come to the fore. First and foremost, solutions to the current situation must come from the citizens of Ukraine themselves.

A historical good governance deficit and widespread corruption have contributed to a lack of trust in political institutions and actors and have significantly contributed to instability. Measures are required to reinforce the minority rights infrastructure and to build confidence that minority rights will be protected in law and in practice. Such measures should include strengthening of legal protection, enhancing institutional attention to minority issues, and instituting stronger and permanent consultation mechanisms. All measures should be adequately funded and politically supported.

Annex

[English and Russian only]

Report of the Special Rapporteur on minority issues on her mission to Ukraine (7–14 April 2014)

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I. Introduction

1. The Special Rapporteur on minority issues, Rita Izsák, conducted an official visit to Ukraine between 7 and 14 April 2014, at the invitation of the Government. She visited Donetsk, Kyiv, Odesa and Uzhgorod. She consulted widely with hundreds of stakeholders, including senior government officials from the Ministry of Foreign Affairs and the Ministry of Culture, representatives of civil society and minority communities, religious leaders, political actors, academics, journalists and internally displaced persons (IDPs), the diplomatic community, United Nations bodies and other national and international actors. She thanks the Government and all of those who consulted with her and provided information.

2. Key objectives of her visit were to hear the voices of minorities and to understand their issues and concerns, both long-standing and current. The Special Rapporteur met representatives of communities including those who identified as ethnic Armenians, Azerbaijanis, Bulgarians, Crimean Tatars, Gagauzis, Germans, Greeks, Hungarians, Moldovans, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Vietnamese and members of Jewish communities. She also met ethnic Ukrainians to learn about their situation as de facto minorities in some localities including the Autonomous Republic of Crimea.

3. The most recent census was conducted in 2001. The main minority groups recorded include Russians 8,334,100 (17.3 per cent), Belarusians 275,800 (0.6 per cent), Moldovans 258,600 (0.5 per cent), Crimean Tatars 248,200 (0.5 per cent) and Bulgarians 204,600 (0.4 per cent). There are smaller populations of Armenians, Hungarians, Jews, Poles, Romanians and other nationalities.

II. Methodology

4. The Special Rapporteur's evaluation is based on the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other relevant international standards, from which she has identified four broad areas of global concern: (a) the protection of a minority's survival by combating violence against it and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups, and their right to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and to equality, including ending structural or systemic discrimination and the promotion of affirmative action, when required; and (d) the right to the effective participation of minorities in public life and in decisions that affect them.

5. The Special Rapporteur focuses her work on minority groups whose generally non-dominant situations require measures to allow them to exercise all their rights, including minority rights, to the fullest. Apart from the national dimensions, minority issues have regional and local dimensions. A group that may constitute a dominant majority or a significant proportion of the population nationally or in a particular region may be numerically smaller and non-dominant in another region. Minority rights protection must also be applied fully for those who find themselves in the situation of being de facto minorities in the localities in which they live.

6. In view of the current political situation in the Autonomous Republic of Crimea and eastern Ukraine, the Special Rapporteur notes that ethnic Ukrainians may constitute de facto minorities in some regions where they live. Some communities, notably Crimean Tatars, self-identify as indigenous peoples. Their engagement with her mandate on minority

issues in no way undermines or is incompatible with their claims to indigenous status and to enjoy the rights contained in the United Nations Declaration on the Rights of Indigenous Peoples.

7. In its resolution 68/262 of 27 March 2014, the General Assembly upheld the territorial integrity of Ukraine and underscored that the referendum held in the Autonomous Republic of Crimea on 16 March 2014 had no legal validity. The visit and findings of the Special Rapporteur are in full conformity with resolution 68/262 regarding recognition of the continuing status of the Autonomous Republic of Crimea as the territory of Ukraine under international law. The present report does not provide a comprehensive analysis or chronology of events resulting in political and social unrest and conflict in 2014, but summarizes developments relevant to minority issues. The report includes references to events after the Special Rapporteur's visit and has benefited from the reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR)[1] and others.

III. Minority rights: legal and institutional framework

8. Ukraine is a party to several of the international human rights instruments that are most relevant to minority rights, including: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. Article 9 of the Constitution of Ukraine provides that ratified international treaties are part of the national legislation. Ukraine is a member of the Council of Europe, and has been a State party to the Convention for the Protection of Human Rights and Fundamental Freedoms since 1997. It has signed and ratified the major European multilateral treaties for the protection of national minorities: the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages, and falls under their monitoring procedures.

9. The Constitution of Ukraine[2] (art. 11) requires that the State "promotes the consolidation and development of the Ukrainian nation, of its historical consciousness, traditions and culture, and also the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities". The right to equality and non-discrimination is enshrined under article 24, which prohibits "privileges or restrictions based on race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic and other characteristics".

10. Article 10 establishes that the State language is Ukrainian but that "the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is guaranteed". Article 53 recognizes the right to native-instruction: "Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in State and communal educational establishments and through national cultural societies".

11. On 25 June 1992, Law 2494–XII on National Minorities[3] was adopted. It defines national minorities as citizens who are not ethnic Ukrainian but hold feelings of a national identification and affinity among themselves (art. 3). It established a consultative body, the Council of Representatives for Public Associations of National Minorities, within the

[1] Available from www.ohchr.org/en/countries/ENACARegion/Pages/UAIndex.aspx.

[2] English version provided by Ukraine to the Venice Commission, available from www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2014)012-e.

[3] Available from http://zakon2.rada.gov.ua/laws/anot/en/2494-12.

former Ministry for Nationalities (art. 5). It guarantees cultural rights including, inter alia, native-language instruction in State educational institutions, the celebration of national holidays, the right to freedom of religion, and protection of historical and cultural heritage (art. 6). Minority languages may also be used, alongside Ukrainian, in workplaces where the majority of the population belongs to a minority (art. 8). The right to political participation at all levels is guaranteed (art. 9). A specific State budget is established to support "the development of national minorities" (art. 16). Article 19 provides that in case of conflict between that norm and international law, the latter has primacy.

12. Since the Law on National Minorities was adopted, the institutional framework of national minorities has undergone numerous changes and the Ministry for Nationalities has been abolished. In 2010, Presidential decree No. 1085/2010 disbanded the State Committee on Nationalities and Religions, which was the main body in charge of minority issues, following institutional reform, and its competencies were assumed by the Ministry of Culture. At the time of the Special Rapporteur's visit, the Department of Organizations and National Minorities had primary responsibility for minority issues within the Ministry of Culture and had only six staff members.

13. In 2013, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities stated that the Law on National Minorities was "outdated", "too vague in its provisions" and "inconsistent", resulting in "a gap in legal certainty for persons belonging to national minorities with regard to the enjoyment of their constitutionally guaranteed rights, such as in the areas of education, language or representation in elected bodies".[4] The European Commission against Racism and Intolerance of the Council of Europe has called for revisions to the Law to include provisions prohibiting direct and indirect racial discrimination.[5]

14. Law 5029–VI on Principles of the State Language Policy[6] was adopted on 3 June 2012, and constitutes, to date, the primary national legislation on national minorities' linguistic rights, and the use of minority languages in public life. Recognition of the status as "regional languages" is provided to 17 languages (Belorusian, Bulgarian, Crimean Tatar, Gagauz, German, Hungarian, Karaim, Krymchak, Modern Greek, Moldovan, Polish, Romani, Romanian, Russian, Rusyn, Slovak and Yiddish) in regions where the language is spoken by at least 10 per cent of the population (art. 7). That allows minority languages to be used in public administration, schools and courts alongside Ukrainian. Other provisions include the right to use minority languages in Parliament, the publication of the acts of the central State authorities, guarantees of freedom to receive media broadcasts from neighbouring countries in regional or minority languages, and free circulation of information in the written press in those languages. Despite moves to abolish the law in February 2014, these were vetoed by the interim President and, at the time of writing, the law remains in force while under review.

15. The 2001 Criminal Code of Ukraine criminalizes (art. 161) inciting national, racial or religious enmity and hatred, humiliation of national honour and dignity, insulting citizens' feelings with respect to their religious convictions, and any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, colour of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics. In 2009 amendments expanded

[4] Available from www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_Ukraine_en.pdf.

[5] Available from www.coe.int/t/dghl/monitoring/ecri/country-by-country/ukraine/UKR-CbC-IV-2012-006-ENG.pdf.

[6] Available from http://zakon2.rada.gov.ua/laws/anot/en/5029-17.

the scope of provisions and penalties for inciting racial, national and religious hatred, intolerance and discrimination.[7]

16. The legislative framework for political representation and the electoral system includes the Constitution, the Law on Political Parties (2001),[8] and the Law on Election of the People's Deputies (2011).[9] The 2012 Law on National Minorities (art. 9) contains a general provision regarding the representation of minorities among candidates for elections, which in principle guarantees minorities the right "to be elected or to be appointed to any position in the legislative, executive, judicial bodies, in the bodies of local or regional self-government".[10] However, no specific measures are provided to ensure the political participation of minorities. Some interviewees indicated that the current formulation of electoral districts and restrictions on minority parties should be reconsidered in order to improve the possibility for minority representatives to be elected to Parliament.

17. The Ukrainian Parliament Commissioner for Human Rights (the Ukrainian Ombudsperson[11]) is a constitutional, independent body created in December 1997. The Commissioner conducts legal proceedings and inspections and receives individual complaints. A 2010 special report of the Ukrainian Parliament Commissioner for Human Rights noted that a monitoring programme on the human rights status of national minorities had been initiated by the Ombudsman's office.[12] The European Commission against Racism and Intolerance recommended the establishment of a special representative of the Ombudsman with competence to deal with minority issues and racial discrimination.[13]

18. The Ministry of Culture stated that processes were under way to strengthen and expand institutional attention to minority issues, including proposals to establish new independent bodies with responsibility for minorities and inter-ethnic affairs. At the time of writing full details of those proposals were unavailable. The Special Rapporteur urges the authorities to put in place fully inclusive and participatory processes to establish such bodies and to provide assurances that they will be representative of minorities and have appropriate budgets and powers. She noted a general lack of awareness of minority rights amongst minorities and found that minorities mainly focused attention on intercommunal relationships, but often seemed to have limited knowledge of government obligations to protect and promote minority rights.

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[7] Available from www.coe.int/t/dghl/monitoring/ecri/country-by-country/ukraine/UKR-CbC-IV-2012-006-ENG.pdf.

[8] Available from http://zakon3.rada.gov.ua/laws/anot/2365-14.

[9] Available from www.epde.org/tl_files/EPDE/RESSOURCES/Electoral%20Legislation/Election%20Code%20of%20Ukraine_EN.pdf.

[10] Denys Kovryzhenko, *Regulation of Political Parties in Ukraine: The Current State and Direction of Reforms* (Agency for Legislative Initiatives, OSCE/ODIHR, 2010), p. 86, available from http://parlament.org.ua/upload/docs/Party%20Report%20Ukraine.pdf.

[11] See www.ombudsman.gov.ua/en/index.php?view=article&catid=38%3A2010-12-15-09-15-51&id=1145%3Alaw-of-ukraine-qon-the-ukrainian-parliament-commissioner-for-human-rightsq&format=pdf&option=com_content&Itemid=25.

[12] Available from www.ombudsman.gov.ua/en/images/stories/07022011/S_Dopovid_5_en.pdf, p.148.

[13] Ibid., p. 147.

IV. Minority rights in the context of political and social unrest in 2014

19. The situation of political and social unrest in some regions since February 2014, while having minority rights dimensions, is distinct from the general minority rights situation in Ukraine. Evidence suggests that the concerns of minorities, primarily over language and cultural rights, following the Euromaidan movement and the new Government taking power in February 2014, have been unduly escalated to create a situation of high tension and conflict. The presence and activities of far-right, ultranationalist "self-defence" groups and unidentified illegal armed actors have created anxiety and inflamed tensions in several locations. The Special Rapporteur does not consider that they represent or speak for most persons belonging to minorities or the majority of the Ukrainian people, and they should not be allowed to influence political, social or economic decisions via force or coercion.

20. The role of informal, unofficial and sometimes illegally armed groups, including in the events in the occupied Autonomous Republic of Crimea, and the unrest in eastern and southern Ukraine leading to the takeover and occupation of some buildings and towns have been prominent and highly destabilizing. It is essential to quickly re-establish the rule of law and the role of legitimate law enforcement actors and for all non-official groups to be disarmed and dispersed. Where any individuals involved in such groups are alleged to have committed or incited crimes, they must be prosecuted according to the law.

21. Several interviewees complained about worsening economic conditions, corruption, unemployment and the lack of good governance, which they considered to have contributed to grievances, political instability and a general distrust of politicians and political structures. It is essential to consider the wider economic and political dimension of the current situation and to implement measures to guarantee equality, social and economic rights and combat corruption and mismanagement of resources, as a means to increase trust in political leadership. The reality or perception of inequality in access to resources or distribution of resources, also involving geographical imbalances, as well as partisan politics and political patronage serve to undermine stability and create ethnic, linguistic, and geographic fault lines.

22. Ethnic Russians consulted in Donetsk, Kyiv and Odesa strongly expressed their views that the Euromaidan movement represented an explicit anti-Russian agenda with potential implications for their future rights and security. Some stated concern over the role of far-right and Ukrainian nationalist groups including the All-Ukrainian Union "Svoboda" (Freedom) and "Pravyi Sektor" (Right Sector), that have openly expressed anti-Russian and anti-Semitic sentiments and have nationalist agendas. It is evident that dialogue between the Government and ethnic-Russian groups in eastern and southern Ukraine is weak, while it is essential to build confidence that minority rights guarantees will be put in place and respected. The Special Rapporteur notes the poor election results of far-right and allegedly anti-Russian parties in the May 2014 elections.[14]

23. The Special Rapporteur was not provided with evidence that anti-Russian sentiment was widespread. There have been few incidents of discrimination, harassment or abuse of individuals or groups on the basis of their Russian identity in Kyiv or other localities. Russians and ethnic Ukrainians frequently stated that their relations remained good. Incidents of intercommunal violence were extremely rare or non-existent in most localities at the time of the Special Rapporteur's visit. However, in the current situation of conflict in

[14] Right Sector and Svoboda received just 0.9 per cent and 1.3 per cent of the vote, respectively.

some regions, it is necessary for all relevant actors, including the United Nations human rights monitoring team, to identify incidents or trends that indicate that violence or intimidation on the grounds of ethnicity, language or religion are increasing.

24. In April and May 2014, unrest in southern and eastern Ukraine escalated significantly with public buildings in localities including Donetsk, Kharkiv, Odesa and Slovyansk falling under the occupation of pro-Russian activists and violent incidents as Ukrainian authorities responded. Vaguely defined pro-Russian elements, including organized and illegally armed groups, often emerged in previously peaceful locations, sometimes with tragic consequences. Such incidents have the potential to further divide communities along ethnic and linguistic lines and create the conditions for the escalation of tensions.

25. On 11 May 2014, pro-Russian elements in separatist-controlled cities and towns in Donetsk and Luhansk regions held "referendums" asking "Do you support the act of State self-rule of the Donetsk/Luhansk People's Republic?" The vote was condemned as illegal by the Government and the international community and the Special Rapporteur supports that opinion. Reports suggest that many pro-unity supporters boycotted the action while pro-Russian supporters took part. The "referendums" lacked democratic legitimacy. They provided a distorted and unreliable account of public opinion and have served to further divide communities, increase tensions and destabilize the situation.

26. Some minority representatives emphasized their desire for greater political and cultural autonomy for some regions. Some representatives of Russian ethnicity maintained strongly nationalist feelings associated with their kin-State and historical claims over certain territories. Those who proclaimed a "People's Republic" in Donetsk and held "referendums" on the status of those regions stated their objective as separation from Ukraine. Regrettably, some have sought to achieve that by force.

27. The Special Rapporteur considers it important to monitor and robustly address any hate speech and incitement to violence that may fuel tensions, particularly in the context of the current crisis. The Organization for Security and Co-operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) Human Rights Assessment Mission in Ukraine found that "instances of hate speech towards ethnic and religious groups have been widespread" including in the Autonomous Republic of Crimea. It stated that "pro-Maidan activists have often been labelled '*banderovtsy*', 'Nazis' and 'fascists'. Supporting the territorial integrity and unity of Ukraine has been depicted as a sign of intolerance and nationalism".[15] The Mission report noted indications of growing anti-Tatar sentiment in the Autonomous Republic of Crimea. The Special Rapporteur concurs with the assessment of the Mission that there has been a trend that has seen political orientation conflated with ethnic background in eastern and southern Ukraine, where Ukrainian identity and symbols have been targeted for hate speech. Equally, any anti-Russian sentiments must be closely monitored.

28. The Special Rapporteur received reports stating that some Russian language media sources in Donetsk Oblast (region) and Ukrainian language media in the Autonomous Republic of Crimea have faced closure or broadcasting restrictions. The violent takeover of some broadcast media was reported in some localities under pro-Russian control.[16]

[15] See www.osce.org/odihr/118476?download=true.

[16] The June 2014 OHCHR report on the human rights situation in Ukraine states that "according to NGOs, freedom of media in the Donetsk region is severely curtailed, with Ukrainian TV channels switched off by the 'Donetsk People's Republic' and replaced by its own media programmes and Russian TV" (para. 232). Available from www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf.

Freedom of expression and media freedom should be guaranteed within the framework of the Constitution and international law, and respected in practice. All journalists should be free to work in safety and without threat of detention or violence. Nevertheless, evidence suggests that some media provided a distorted picture of events as they developed. Journalists and those who control media content have a responsibility to convey information accurately and objectively and to avoid propaganda or misinformation which may incite unrest or violence.

V. Issues of minority identity in Ukraine

29. Given the historical, geopolitical and national/cultural contexts that have shaped independent Ukraine, issues of identity are complex and emotive. Many of those consulted self-identified primarily according to their national or ethnic origins in a kin-State, while placing less emphasis on their Ukrainian identity and citizenship. Ukraine consequently has numerous large minority groups with strong historical, ethnic, cultural and linguistic connections to neighbouring countries and clear historical narratives regarding their communities, and their "belonging" in Ukraine. The Special Rapporteur also interviewed representatives of groups, including Ruthenians, who felt that they had not been recognized as minorities or indigenous peoples, which is how they identified themselves.

30. Many representatives of minorities emphasized their strong and enduring relations with their kin-States and the fact that no barriers existed to their establishing associations and maintaining social and cultural ties with those countries. They maintained cultural associations and events and minority media, as well as education in their mother tongue languages, sometimes with the support of kin-States. It is evident that Ukraine substantively upholds the right of minorities to establish their own associations and to maintain free and peaceful contacts including across frontiers; some interviewees stated that additional State support and funding were necessary.

31. Despite a strong feeling of minority identity, the majority of those consulted also emphasized their Ukrainian citizenship and their satisfaction with their treatment as minorities. Some interviewees suggested that stronger history and civic education components could be incorporated in school curricula in order to foster stronger Ukrainian national identity, mutual knowledge and understanding among different groups and to promote national unity.

32. The long history of settlement in the territory of Ukraine by different peoples has created overlapping and sometimes competitive identities. In the short time since independence, it has proved difficult to unite such diverse population groups and forge a sense of common Ukrainian identity.[17] Measures to promote national identity, culture and language, known as Ukrainianization, are legitimate and necessary to promote unity and economic, geographic and social mobility in a country with such diverse population groups. However, issues of cultural autonomy and the ability for minorities to influence decisions that affect them and the regions where they live were particularly prominent in consultations held and the Special Rapporteur encourages continued dialogue with minorities on those important matters.

33. Russian minority representatives acknowledged that, prior to the unrest, they did not face a repressive environment, widespread discrimination, exclusion, or violence based on their identity. They commonly reflected their greatest concerns as being in the fields of

[17] Minority Rights Group International, "Ukraine overview", available from www.minorityrights.org/5053/ukraine/ukraine-overview.html.

language and education and expressed their perception that the Euromaidan movement and pro-European Government would diminish the status of the Russian language and culture, reinforced by attempts to abolish the 2012 language law. Some ethnic Russians viewed the territory and people of Ukraine as historically and culturally Russian and strongly rejected the label "minority" being applied to them.

34. A population census is overdue and is planned for 2016. In the absence of accurate disaggregated data that reveal the ethnic, linguistic or religious composition of the population, there is often dangerous speculation and manipulation relating to the size of certain groups. An early and well-conducted census will provide reliable data on the ethnic and linguistic diversity of Ukraine, help to identify problems facing particular population groups, and enable the Government to understand and respond to the needs of different minorities.

VI. Language and cultural rights of minorities

35. Consultations revealed that the use of minority languages was highly important and emotive for many communities and an essential aspect of individual and community identity. National minorities clearly expressed their desire to maintain and protect their language rights and their ability to use their languages freely in private and public without discrimination. Most communities broadly expressed satisfaction that their children had the opportunity to learn and, in many cases, be taught in their mother-tongue language. Minority schools have been established and can function freely according to national law.

36. Calls to upgrade the status of Russian as a second official State language have been the subject of fierce disagreement between pro-Russians and those who advocate the primacy of Ukrainian. The Government considers that widespread knowledge and use of Ukrainian as the State language are important to Ukrainian national identity and unity and allow economic, geographical and social mobility while ensuring that those belonging to any ethnic or linguistic minority can participate fully in all aspects of society, including political life. Minority representatives frequently mentioned that the use of minority languages was a significant and valued feature of Ukrainian society and was not incompatible with the teaching and use of Ukrainian.

37. Reliable data concerning the number of users of minority languages and their geographic distribution are important to ensure that they comply fully with international standards for protection of the linguistic rights of minorities. The 2001 census revealed that, while 67.5 per cent described their native language as Ukrainian, 29.6 per cent recorded their native language as Russian.[18] Russian is widely spoken in the south, the east and the Autonomous Republic of Crimea, particularly the regions of Crimea (77.0 per cent), Donetsk (74.9 per cent), Luhansk (68.8 per cent), Zaporizhia (48.2 per cent) and Kharkiv (44.3 per cent), while in some other regions there is reportedly extensive bilingualism.

38. The passing of Law 5029–VI on the Principles of the State Language Policy in 2012 provided relatively extensive language rights and a low threshold of 10 per cent for recognition of regional language status, benefiting several minority language communities. However, it also raised concerns, including with regard to the promotion of the Ukrainian language, despite its status as the sole State language. The Law was criticized, including by the European Commission for Democracy through Law (Venice Commission), as being overly focused on the promotion of the status of the Russian language, potentially at the

[18] Available from http://2001.ukrcensus.gov.ua/d/mono_eng.pdf.

expense of Ukrainian.[19] While the Law remains in effect, the Government has announced that new language legislation is being drafted and will be subject to review by the Commission before being passed into law.

39. Nevertheless, steps in February 2014 to abolish the 2012 Law on the Principles of the State Language Policy, although vetoed in practice, created anxiety as minorities were concerned that new amendments would weaken their linguistic rights. Ethnic Russians spoke passionately about the decline in use of Russian in education, and their desire to see enhanced protection measures put in place. Some pointed out that there were relatively few Russian language schools in relation to the number of Russians who considered it their first language and described a gradual decline of the Russian language and cultural institutions.

40. Some ethnic Russians voiced their concerns regarding assimilation and the gradual erosion of elements of Russian culture and language. One representative stated: "There is not a repressive environment, but there is an attempt to push out the Russian culture part of me." Although according to Ministry of Education and Science statistics, in 2012/2013 Russian was the language of instruction and study in 1,256 schools providing general education, with 694,331 pupils being taught in Russian, ethnic Russian representatives noted a decline in education in the Russian language, notably in higher education, and that some Russian cultural centres had closed.

41. In practice, Russian remains widely used and understood. The Government states that 40 per cent of all printed media nationally are in Russian and up to 74 per cent of media broadcasts are in Russian in some regions. Government objectives of promoting Ukrainian as the national language may impact on the extent of Russian language use over time. Although according to the Government over 100 public associations represent the Russian minority, some ethnic Russians stated that civil society organizations and activities to promote Russian language and culture and to raise their issues and concerns were relatively weak.

42. The January 2014 report of the Committee of Experts on the European Charter for Regional or Minority Languages,[20] while noting some challenges for smaller linguistic minorities, stated: "In regard of Hungarian, Romanian and Russian the situation is by and large satisfactory and the right of speakers to receive education in these languages is more or less secured. The traditional models of teaching in Hungarian, Romanian and Russian have been preserved, although there seems to be a certain decline in the number of pupils enrolled." Concern was expressed that the "phasing out of higher education in Russian will constitute an obstacle to full access of Russian speakers to higher education". The report referred to an unmet demand from users of minority languages for support to establish and sustain cultural centres and a lack of long-term financing for such centres.

43. Civil society groups emphasized that any revised language law must fully conform with international standards and should not weaken the existing protection of the linguistic rights of minorities. Some expressed concern that a new language law might increase the threshold of 10 per cent for recognition of minority languages as "regional languages", restrict language rights in fields such as the media and education, and provide weak language rights protection for smaller and dispersed minority groups. Importantly, some minorities stated that they had not been consulted about the process of drafting a revised

[19] The Commission recommended the implementation of balanced policies in order to preserve Ukrainian as an integrative tool within society. See www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)047-e.

[20] Available from www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/UkraineECRML2_en.pdf.

law and were unaware of its status. Ethnic Russians expressed concern that allegedly anti-Russian officials of Svoboda would have a substantive role in formulating the new law.

VII. Situation of internally displaced persons and Crimean Tatars

44. The Special Rapporteur attempted to gain access to the Autonomous Republic of Crimea to assess the situation of minorities and to consult with the de facto authorities and minority and other community actors. Regrettably, she did not receive the required assurances to enable her to travel. The general human and minority rights situation in the Republic is of concern as administrative authority over the region has been illegally assumed by the Russian Federation following a disputed referendum on 16 March 2014.[21] On 27 March, the General Assembly underscored in its resolution 68/262 that that referendum had "no validity" and upheld the territorial integrity of Ukraine, including the Autonomous Republic of Crimea.

45. The 2001 census revealed that ethnic Russians made up 58.3 per cent of the total population in Crimea (1,180,400 people, although that percentage has declined from 65.6 per cent in 1989). Ukrainians accounted for 492,200 people or 24.3 per cent (a decline from 26.7 per cent in 1989), and 243,400 were Crimean Tatars (reflecting an increase from 1.9 per cent in 1989 to 12 per cent in 2001 owing to the significant return of Tatars to the peninsular). The number of returning Crimean Tatars reportedly peaked at 41,400 in 1991, and has been rapidly falling since.[22]

46. The Special Rapporteur interviewed several people who had left the Autonomous Republic of Crimea. Some mentioned uncertainty, social and political pressure and fear for their security and rights as the reasons for their decision to leave. They reported a tense and threatening environment, including via social media, against those who opposed or criticized the events surrounding the "referendum" and some stated that they knew about incidents of physical and verbal abuse. Some interviewees stressed their desire to remain Ukrainian and not to live in the Russian Federation. Some stated that Ukrainian language media in Crimea had been "switched off". In the current political circumstances, the human rights situation of ethnic Ukrainians who remain in the Autonomous Republic of Crimea as a de facto minority requires close monitoring; some reports suggest that there has been intimidation of those who openly oppose Russian control of the region or use the Ukrainian language in public.

47. Some individuals stated that concerns over maintaining Ukrainian citizenship and passports had been a contributing factor in their decision to leave. They expressed fears that those who wished to remain Ukrainian in the Autonomous Republic of Crimea would face discrimination as "foreigners" with implications for their economic, social and cultural rights and their right to participate in political life. Crimean residents were given one month, until 18 April 2014, to submit applications declaring that they did not wish to become Russian citizens. Some reported procedural difficulties that apparently made it difficult to meet the necessary requirements to keep their Ukrainian passports, including a shortage of registration offices, and suggested that those were deliberate barriers.

48. Concern exists regarding the implications of not accepting Russian citizenship and passports, including loss of property, restrictions on freedom of movement, provision of

[21] Pro-Russian authorities claimed that 97 per cent of voters supported the proposal to join the Russian Federation, a figure that was disputed by the Ukrainian authorities.

[22] Minority Rights Group International, "Ukraine overview", available from www.minorityrights.org/5053/ukraine/ukraine-overview.html.

State pensions, and the possible loss of government jobs. Civil servants and law enforcement officials are required under Russian law to formally relinquish their Ukrainian passports since those who occupy government jobs cannot hold dual citizenship.[23] Some expressed concern that Ukrainian citizens would feel compelled not to refuse Russian citizenship owing to the potential impact on their human rights. Equally, expectations of a hostile climate towards those with pro-Ukrainian views and those who wished to remain Ukrainian might encourage more people to leave.

49. The Special Rapporteur consulted leaders of the Crimean Tatar Mejlis (the self-governing body of Tatars). The return of Tatars, who are the indigenous inhabitants of the Autonomous Republic of Crimea, following their mass deportation in 1944, resulted in reported friction with the significant Russian population. Repatriation programmes were reportedly insufficiently funded and many returnees lacked adequate support. Issues of concern included high unemployment among Tatars and competition for land, despite their claims to land rights as indigenous people. There was no compensation provided for the properties that Tatars had lost and many, lacking access to land, occupied public lands. Consequently incidents of confrontation with other communities and the police have been recorded.

50. It is of great concern that many Crimean Tatars will refuse to accept Russian citizenship or authority which may render them even more vulnerable. Most Crimean Tatars boycotted the March 2014 referendum.[24] Sergey Aksyonov, who at the time was "governor" in the Autonomous Republic of Crimea, reportedly stated publically that Crimean Tatars should "leave if they don't like it". Some Crimean Tatar leaders who travelled out of the Republic have faced restrictions on re-entering, including the former head of the Mejlis, Mustafa Dzhemilev, who called for a boycott of the "referendum". On 22 April, he was banned from travelling to the Republic for five years, leading to protests and subsequently a warning from the de facto authorities that the Mejlis could be dissolved if it supported "extremist activities". On 5 July, a ban on entry was imposed on the current head of the Mejlis, Refat Chubarov, reportedly for "extremist statements". Charges were reportedly brought against 30 protestors and fines imposed. The authorities imposed a temporary ban on public protests in advance of the seventieth anniversary of the deportation of Crimean Tatars.

51. Some incidents have heightened anxiety within Tatar communities. On 3 March 2014 a Tatar labourer, Reshat Ametov, disappeared after reportedly being led away from a protest in Simferopol by unknown men in camouflage. His body was found days later in the mixed ethnic community of Belogorsk. Prior to the referendum of 16 March, Tatar communities reportedly had crosses marked on the walls or gates of their homes, which allegedly heightened anxiety regarding potential targeting. OHCHR stated that some Tatar representatives had mentioned concerns over unidentified uniformed men claiming rights on Tatar properties and land and reports of plans to relocate some communities.[25]

52. At the time of drafting, the Office of the United Nations High Commissioner for Refugees (UNHCR) reported over 10,000 verified IDPs in 24 regions as of 20 May 2014, the majority having left the Autonomous Republic of Crimea, with numbers continuing to

[23] EUDO Observatory on Citizenship, "The aftermath of annexation: Russia and Ukraine adopt conflicting rules for changing citizenship of Crimean residents" (11 April 2014), available from http://eudo-citizenship.eu/news/citizenship-news/1113-the-aftermath-of-annexation-russia-and-ukraine-adopt-conflicting-rules-for-changing-citizenship-of-crimean-residents.

[24] OHCHR was informed by representatives of Crimean Tatars that no more than 1,000 out of a population of 290,000–300,000 participated in the 16 March referendum.

[25] June 2014 OHCHR report on the human rights situation in Ukraine (see note 16 above).

rise.[26] The Government has no registration system for IDPs on national or ethnic lines that would allow for a full breakdown according to identity. Estimates suggest that many are Crimean Tatar (80 per cent in western Ukraine; 20 per cent in the Kyiv region); however there are reports of an increased registration of ethnic Ukrainians, ethnically mixed families, ethnic Russians, refugees, asylum seekers and foreigners married to Ukrainian citizens.[27] The true number may exceed that provided, given that many people may have found accommodation with relatives and communities without registering with organizations that provide support. According to UNHCR, factors triggering movement include increased security concerns and personal threats.

53. Efforts to address the needs of IDPs and protect the rights of those who remain in the Autonomous Republic of Crimea and prevent further displacement should conform with the Guiding Principles on Internal Displacement. UNHCR reported the priority concerns of IDPs as: maintaining contacts in the Autonomous Republic of Crimea; freedom to move and communicate between the Republic and the mainland; assistance with shelter and employment; simplified procedures for obtaining identity and residence documents to enjoy social and economic rights on the mainland; continuity of social payments; and assistance with property sales, transfer of funds and personal belongings. The Special Rapporteur welcomed efforts to support IDPs and witnessed solidarity across various communities manifested in voluntary services and contributions. However, some reports suggested that IDPs had experienced difficulties gaining access to financial support from the State.

54. Some Crimean Tatar representatives indicated that, historically, their rights had not been fully recognized and protected by any authority in the Autonomous Republic of Crimea. The Government mentioned that, following the events in the Republic resulting in the "referendum", in March 2014 the Verkhovna Rada had passed a resolution guaranteeing the rights of the Crimean Tatar people as a part of the State of Ukraine (No. 1140–VII of 20 March). According to the resolution, Ukraine guarantees to preserve and develop "the ethnic, cultural, linguistic and religious uniqueness of the Crimean Tatar people, as indigenous people and of all national minorities of Ukraine". It acknowledges the Mejlis of the Crimean Tatar people as a competent authority and requires urgent submission of draft laws and regulatory legal acts confirming the status of the Crimean Tatar people as indigenous people.

55. According to General Assembly resolution 68/262 on the territorial integrity of Ukraine, the Russian Federation has no legal jurisdiction over the Autonomous Republic of Crimea or its populations. Nevertheless, it is to be noted that on 21 April 2014, following its occupation of the Republic, the Russian Federation published a decree on measures to rehabilitate Armenian, Bulgarian, Greek, Crimean Tatar and German populations and State support for their revival and development. The Special Rapporteur notes that the full spectrum of human rights of minorities must be respected, protected and promoted without discrimination by the de facto authorities even in situations of territorial dispute or occupation.

56. In view of recent political and social change and the activities of armed militias, the Special Rapporteur recommends that the United Nations human rights monitoring mission should be allowed unfettered access to the Autonomous Republic of Crimea at the earliest opportunity. It should engage with both the de facto authorities and diverse civil society and community actors to ensure that human rights standards, including minority rights, are upheld in practice.

[26] See http://unhcr.org.ua/attachments/article/971/IDP.pdf and www.unhcr.org/537b24536.html.

[27] From mid-April 2014, UNHCR noticed movement of people away from eastern Ukraine as tensions increased in the regions.

VIII. Situation of religious minorities

57. Ukraine has a wide range of religions, belief groups and religious freedoms and the rights of religious minorities are protected in practice. Nevertheless, given the climate of political and social unease, it is particularly necessary for the authorities to guard against any human rights violations, including acts of violence, intimidation, threat or abuse targeted at individuals or groups based on their religion. Some incidents of concern have been reported in the context of the tense social and political environment since February 2014.

58. Jewish representatives reflected that they were well integrated, enjoyed their rights as a religious minority and that anti-Semitism, discrimination and violent incidents were rare. They generally expressed satisfaction at the extent of their minority rights protection. However, some incidents were reported in the context of the unrest that had put Jewish communities on alert. In February, the Giymat Rosa Synagogue in Zaporizhia, near Kyiv was firebombed. In early April 2014, a Holocaust memorial in Odesa was vandalized with Nazi graffiti. On 19 April, the Nikolayev Synagogue was firebombed causing minor damage. Representatives expressed concern about adequate protection measures. One leader stated: "No proper police are in place; ordinary people are carrying arms." Some anti-Semitic graffiti was also reported in the Autonomous Republic of Crimea.

59. Of concern to the Jewish community was the distribution in Donetsk by men wearing balaclavas of leaflets calling on Jews to register with the pro-Russians, pay a tax, or leave. The leaflets bore a stamp reportedly of the self-proclaimed "People's Republic of Donetsk", although it declared the leaflets to be a hoax. It remains unclear who was behind the leaflet. One leader of the Jewish community mentioned an incident in which neo-Nazi graffiti, allegedly signed by the Right Sector, had been painted on the walls of a synagogue in Odesa. Right Sector representatives denied involvement and reportedly helped remove the graffiti. A Jewish leader stated: "Politicians are playing the 'Jewish card'" and that the incidents were intended to inflame tensions and concerns amongst Jewish communities for political ends.

60. While incidents remain rare, they nevertheless indicate a potential rise in manifestations of anti-Semitism, which must be monitored closely. The lack of implementation of the rule of law in some localities provides an environment in which far-right groups have undoubtedly increased their activities and such anti-Semitic incidents may become more pronounced. Such incidents have created anxiety and should be investigated as crimes aggravated by hatred. Anti-Semitism must be acknowledged by the Government and measures should be taken to prosecute according to the law any person or group alleged to have committed or incited anti-Semitic acts.

61. Senior representatives of the Ukrainian Orthodox Church (Moscow Patriarchate) expressed concerns over alleged reports from church members of rising animosity against them, searching of properties, and the questioning of a church leader. They stated that there had been calls for Russian churches to be destroyed and Russian priests to be killed. They mentioned calls for the two most important monasteries to be transferred to the Kyiv Patriarchate and threats, allegedly by the Right Sector, to take over the cathedral unless it was transferred to the Kyiv Patriarchate. They reported cases of intimidation and persecution, including the case of a priest who had fled to Luhansk after having been interrogated by the authorities.

62. In the Autonomous Republic of Crimea, there have been news reports of representatives of the Ukrainian Orthodox Church claiming that Russian priests with armed supporters had threatened to confiscate churches. Some representatives of the Ukrainian Catholic Church reportedly left Crimea following alleged threats of arrest or property

seizure and intimidation. One priest was allegedly detained and beaten in March 2014 and a number of priests and parishioners have reportedly left for areas under Ukrainian control. Some Tatar representatives expressed concern, as members of the Muslim minority, over the extent to which their rights to freedom of religion, expression and assembly would be protected. According to UNHCR, some observant Muslims (mainly Tatar) and evangelical Christians mentioned fear of religious persecution as a reason for leaving the Autonomous Republic of Crimea.

IX. Situation of the Roma

63. The Special Rapporteur was made aware of ongoing concerns with regard to the situation of Roma communities in Ukraine. She visited a Roma settlement and consulted widely with Roma representatives. Economic and social marginalization, as well as problems with registration and identity documents, were widely reported by Roma representatives. The Government's Strategy on the Protection and Integration of Roma in Ukraine until 2020 as well as the National Action Plan on Roma Inclusion are welcomed and have been drafted with the participation of some Roma organizations. However Roma representatives expressed their concern over their lack of participation in the formulation and monitoring of the Strategy and stated that policies were often inadequately funded and poorly implemented in practice.

64. In the context of the tense political situation in March and April 2014, there have been reports of attacks on some Roma communities by armed perpetrators. Despite comments from some Roma that they had previously had good relations in the locality, such incidents were clearly causing anxiety in Roma communities. The European Roma Rights Centre stated that: "It is evident in the current ongoing political instability in Ukraine that some elements are attempting to target Roma, or to mark Roma as scapegoats".[28] In the current context of tension and with the reported presence of a number of far-right and extreme nationalist groups in different localities, threats and attacks against Roma communities must be taken extremely seriously, prevented and perpetrators prosecuted where any such acts take place.

65. On Friday 18 April 2014, there was an attack on a Roma settlement in the city of Slovyansk, which was largely under the control of pro-Russian illegally armed groups. According to residents, at about 10 p.m. a group of around 20 masked armed people burst into Roma houses, beat residents, including women and children, demanded gold and money and took possessions. The attackers were armed with automatic weapons and fired shots into some homes. On the same day, a Roma family house was reportedly set on fire in Cherkassy following tensions between Roma and non-Roma in the town.[29] The Special Rapporteur also received unconfirmed information about alleged threats against Roma by separatists in Donetsk and Luhansk at the end of May, which had reportedly resulted in 60 Roma families leaving to seek refuge with families in Lviv and in the Russian Federation. Such incidents should be immediately investigated.

66. One Roma resident of Slovyansk is reported as stating: "They say they are going to evict the Roma from here. And we don't sleep in our houses, because we are afraid someone will come."[30] On 29 April 2014, a Roma man was shot and seriously injured in Slovyansk while reportedly trying to defend his home from attackers. Roma representatives

[28] See www.errc.org/article/joint-statement-on-violence-against-roma-in-ukraine/4278.

[29] Ibid.

[30] See www.upi.com/Top_News/World-News/2014/04/22/Ukrainian-Roma-attacked-and-robbed/5231398172543/.

stated that they had alerted authorities about such incidents and called for heightened security, including police patrols of Roma settlements, to protect Roma from further attacks. They urged the affected Roma communities to file complaints about violence or threats although they indicated that the Roma were fearful of doing so given the lack of trust in police forces in some locations.

67. The Special Rapporteur visited a Roma community on the outskirts of Kyiv. Over 100 people, including more than 60 children, were living on a rubbish tip in basic shelters of wood and tarpaulin. The community scavenged scrap from the site which they sold to local merchants. Community members described their situation, which included a shortage of food and drinking water, and poor sanitation, health and access to health care. None of the children were in school and they were clearly inadequately dressed for the low temperatures. The community members stated that they had travelled from Uzhgorod owing to the lack of work or income-generating opportunities there and in the hope of finding a better situation. The community needs urgent intervention to improve living conditions and ensure the health, well-being and access to education for their children.

X. Conclusions and recommendations

General comments

68. **Many persons belonging to minorities in Ukraine have strong, distinct historical, ethnic, religious and linguistic identities that they wish to maintain and express, as well as strong cultural, economic, social or linguistic connections with kin-States. Their historical and group narratives are frequently heavily influenced by those ties. Despite previous periods of political and social upheaval since independence, harmonious relations have endured between different population groups and equal treatment was described in most areas of life. Many minority representatives emphasized their minority status while asserting their desire to build their futures as equal citizens of Ukraine.**

69. **Ukraine is a relatively new independent State, following a long period of historical Russian linguistic and cultural hegemony. In the current context it should be recognized that a gradual decline in the influence and extent of a formerly dominant minority language and culture does not automatically indicate evidence of discrimination or human rights violations. However, while it is legitimate for the Government to foster Ukrainian national identity and language, that must be conducted in a manner which respects, protects and promotes the rights of minorities. Sensitivity must be exercised to ensure that no law, policy or programme has discriminatory intent or effect.**

70. **Ukraine has a legislative and policy framework and environment that are generally consistent with the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and that are generally conducive to the protection of minority rights, including their civil and political and economic, social and cultural rights.**

71. **As in many States, the infrastructure for minority rights protection requires strengthening and development and complaints by minorities must be addressed appropriately. That should be achieved in full consultation with minorities. It is essential that any revisions to existing legislation and policy, as well as newly adopted laws, including relating to the status and use of minority languages, fully conform with international standards relating to equality, non-discrimination and minority rights.**

72. Any revised language law must be carefully considered and sensitively addressed to ensure that it fully conforms with international standards for the protection of the linguistic rights of minorities, while equally not undermining the knowledge and use of Ukrainian. It should not weaken standards previously established in the 2012 Law on the Principles of the State Language Policy. Steps must be taken to ensure wide and meaningful consultation, so that the law meets, to the fullest extent, the rights and expectations of the highly diverse and distinct linguistic communities of Ukraine.

Minority rights in the context of political and social unrest since February 2014

73. While recognizing the concerns of minorities, the Special Rapporteur considers that the current human and minority rights situation and the civil and political, economic, social and cultural conditions experienced by minorities cannot justify any violent actions or incitement and support of those actions by any party, national or international. The majority of the population of Ukraine, irrespective of national origin, ethnicity or language, wishes for a peaceful and united Ukraine, rich in its ethnic and linguistic diversity and confident in its future security and stability.

74. Developments in early 2014 have created an environment of uncertainty and distrust that may create fractures along national, ethnic and linguistic lines and which threaten peaceful coexistence if not quickly resolved. In some localities, tension has spilled over into conflict. Such tensions must be diffused as a matter of urgency. The radical nationalist objectives of a limited number of individuals or groups should not be allowed to dictate the future of Ukraine. Protection of human rights and minorities relies on the rule of law, which must be quickly re-established and upheld in all locations.

75. Good and inclusive governance is essential for the effective management of diversity. The current crisis, although framed by some as an inter-ethnic dispute between pro-Ukrainian and pro-Russian factions, has been partially caused by wider political and economic factors that must be recognized and addressed in order to avoid further ethnic, regional and political polarization. A historic good governance deficit, widespread corruption and mismanagement of resources have contributed to a lack of trust in political institutions and actors and significantly contributed to instability.

76. The situation of minority communities in the Autonomous Republic of Crimea, including Crimean Tatars, ethnic Ukrainians and other potentially vulnerable groups, should be monitored closely. The United Nations human rights monitoring mission and other international monitors should be allowed unfettered access to the Republic at the earliest opportunity. They should engage with both de facto authorities and diverse civil society and community actors to assess the extent to which human rights standards, including minority rights, are being upheld in practice.

77. The Special Rapporteur notes that, even in situations of territorial dispute or occupation, the full spectrum of human rights of minorities must be respected, protected and promoted without discrimination by the de facto authorities.

78. Those displaced from the Autonomous Republic of Crimea and other locations should be provided with all necessary short, medium and long-term support. Mechanisms of possible return to their homes, compensation for loss of property, or restitution of property and land should be considered. All relevant authorities must take measures to reduce or prevent further displacement, including through

implementation of human and minority rights standards. The possibility for IDPs to return voluntarily to their places of origin with assurances for their security should remain a key objective.

79. It is essential to begin a process of national dialogue with the objective of understanding the concerns and issues of all communities and ensuring that they are addressed appropriately and rapidly. Moderate voices must come to the fore. First and foremost, solutions to the current situation must come from the Ukrainian people themselves. That must be achieved through decision-making processes that are inclusive and which respect diversity and political structures that ensure the participation of all, including minorities.

80. Hate speech and incitement to hatred, hostility or violence targeted at any person or group must not be tolerated. Political and community leaders should be the first to condemn any such statements and to send a clear message that they will be treated as criminal acts, punishable by law. Those elements on any side engaging in or inciting violence or hatred must be prosecuted. They should have no role in shaping the future of Ukraine, nor should they be allowed to impose their will through the use of violence or force. All non-official and illegally armed groups should be disarmed and disbanded.

81. Freedom of expression, assembly and the right to protest peacefully must be protected even in times of political unrest and must only be restricted under exceptional circumstances. All relevant authorities must uphold those rights for all. Violent protest, the forced or armed occupation of public buildings or territories, the formation of armed militia groups and activities to intimidate, threaten or coerce are not legitimate in a democratic society and should be addressed according to the law and international standards.

82. The Special Rapporteur notes that all journalists should be free to conduct their work in safety and without threat of detention or violence and that the freedom of the media must be protected. Censorship of media should be used only as a last resort and any restrictions on the media and freedom of expression must be legitimate, proportionate and in conformity with international standards. Nevertheless, the Special Rapporteur is deeply concerned over media coverage that was frequently cited as misrepresenting the situation and serving to fuel tensions. Governments and media outlets have a responsibility to convey information accurately and objectively and to avoid any propaganda or misinformation which may incite unrest or violence.

83. The rights of religious minorities are protected in practice. However, given the climate of political and social unease, it is particularly necessary for the authorities to guard against any human rights violations, including against Crimean Tatars and members of Jewish communities. Acts of anti-Semitism, hate speech, violence, intimidation, threat or abuse targeted at individuals or groups based on their religion or belief must not be tolerated. All relevant authorities have an obligation to act swiftly to protect all religious groups in all localities, their places of worship, monuments and burial sites, particularly during periods of heightened tension, and to prosecute the perpetrators of violations against them.

84. The Special Rapporteur was struck by the many actors who have demonstrated national unity, solidarity and dialogue across different population groups to ensure a peaceful resolution to the crisis. Different faith and community groups have reached across religious and ethnic divides to offer support and assistance to those affected by the current situation, including those who have been displaced, and some of those with different political views have sought reconciliation. Political, religious and community

leaders are urged to use their influence to promote dialogue and encourage peaceful solutions to tensions.

Strengthening minority rights protection

85. **The Special Rapporteur considers that additional measures are required to strengthen minority rights protection. Considering the great diversity of population groups and the sensitivity of minority issues in the independent, post-Soviet era, institutional attention to minority issues is currently insufficient and has been downgraded in recent years. Mechanisms to register complaints and seek solutions are currently insufficient. At the time of the Special Rapporteur's visit, there were only six staff members within the Ministry of Culture with direct responsibility for minority issues. The Government must recognize the wider scope of minority rights that includes but goes beyond cultural issues, and ensure appropriate ministerial-level attention to minority issues.**

86. **The Special Rapporteur welcomes Government assurances that measures to strengthen institutional attention to minority issues are being developed. She recommends the establishment of a consultative and advisory body on minority issues with frequent and regular sessions, empowered to consider a wide range of matters of relevance to minorities, including problems of minority languages and education, religious affairs, and measures to address practically and prevent ethnic tensions from emerging. A dedicated Ombudsperson or similar structure mandated to address minority issues and receive complaints from minorities should also be considered.**

87. **A key pillar of minority rights is full and equal participation in public life, including political participation at the national, regional and local levels. Full access to democratic structures is critical for minorities to voice their concerns and to achieve meaningful solutions to their issues. Measures are necessary to strengthen the political participation o. .ninorities and guarantee their full involvement in decision-making bodies.**

88. **Policies to guarantee representation of minorities in Parliament include reserved seats or the redrawing of electoral districts to allow compact minority communities to elect their own representatives, and should be considered. Measures to increase political and cultural autonomy for some localities with large minority populations may be considered, where appropriate and in full consultation with all communities affected. The Special Rapporteur urges consideration of the recommendations of the Forum on Minority Issues which addressed minorities and effective political participation during its second session.**[31]

89. **In many countries, autonomous arrangements have been established and are appropriate taking into account specific circumstances, including where a national minority forms a high percentage of the population in a region. However, the nature and extent of that autonomy should be established in conformity with national law and international standards and through democratic, legal and consultative mechanisms and constructive dialogue which takes fully into account the views of minorities and all affected communities, including ethnic Ukrainians who might constitute a minority in affected regions.**

90. **Political parties and actors have a responsibility to all citizens and are accountable to all, irrespective of their national, ethnic, religious and linguistic**

[31] Available from www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/Session2.aspx.

identity. The Government and all political parties must uphold the highest standards with regard to the banning of statements and political platforms that promote racism, xenophobia or hate speech, or which are intended to incite ethnic, religious or other forms of hatred or intolerance. Any such actions should be prosecuted according to the law. As a confidence-building measure, all political parties should clearly state their commitment to minority rights protection and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

91. Educational curricula should reflect the diversity of Ukraine and enable students to learn about their own origins, cultures and religions, but also those of others, in a positive way that recognizes the contributions of all groups to society. Minority and mother-tongue schools, while legitimately maintaining minority languages and cultures, should also be required to provide education on the wider ethnic, national, social and religious make-up of society. The national curriculum should include education on active citizenship.

92. The Government should take additional measures, including providing financial and institutional support, for minorities to establish cultural and advocacy associations and maintain and enhance their activities. While there are now an increasing number of civil society organizations, further strengthening of civil society is needed so that minorities can enhance cultural activities as well as jointly formulate and convey important messages and establish and maintain dialogue with various authorities.

93. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (art. 5) calls for programmes of cooperation and assistance among States with due regard for the legitimate interests of minorities. Article 6 requires States to cooperate on questions relating to minorities in order to promote mutual understanding and confidence. Under article 7, States should cooperate to promote respect for the rights set forth in the Declaration. States with large diaspora communities are urged to take all possible steps to promote reconciliation and to defuse tensions where they exist. They must avoid actions that undermine confidence or incite, fuel or support violent or separatist movements on the part of minorities.

94. There has been an apparent escalation of anti-Roma sentiment and of incidents of violence and intimidation directed towards Roma in the context of the 2014 political unrest. All relevant authorities should ensure adequate protection of Roma communities and that any incidents of violence and intimidation are fully and speedily investigated and perpetrators prosecuted. Authorities should ensure that current and ongoing political instability is not used by any party as an opportunity to attack or intimidate Roma or forcefully remove them.

95. In the medium to long term, more robust responses from the Government are required to address Roma exclusion, marginalization and poverty. Measures should include an institutional, policy and programme framework, created with the full participation of Roma, that is adequately financed and politically supported to tackle the long-term challenges that many Roma experience.

96. The most recent census was conducted in 2001. The absence of accurate demographic and socioeconomic data constitutes a serious challenge to ensuring protection of minority rights. Accurate data will reveal the current picture of national, ethnic, religious and linguistic groups and provide key socioeconomic information, including in relation to such issues as language and identity. Such data, including reliable data on the number of users of minority languages and their geographic

distribution, should facilitate development of policy and programme measures to improve the situation of minorities.

97. **Census questions should allow open and multiple responses that enable respondents to self-identify according to their national, ethnic, religious and linguistic affiliation, including multiple identities. Ensuring accurate data for the most marginalized groups, such as Roma, is essential and should be facilitated through outreach and information for communities and training of census collection staff.**